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ABSTRACT

The full texts of all prepared statements and supplemental materials presented during five days of oversight hearings held on rehabilitation of the handicapped programs and implementation of these programs by agencies under the Rehabilitation Act of 1973 are contained in this document. Statements are made by (1) State and local directors and other representatives of various institutions and organizations for the physically and mentally handicapped, and (2) representatives from State departments of education, Federal agencies, State and national advisory councils, and various professional organizations. The statements, exhibits, and panel discussions present national, local, and institutional concerns regarding the conditions of rehabilitation programs for the handicapped. Additional information is included in the form of articles, publications, official communications, questions and answers, and selected tables. (TA)

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REHABILITATION OF THE HANDICAPPED PROGRAMS, 1976

HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARINGS ON REHABILITATION OF THE HANDICAPPED PROGRAMS AND THE IMPLEMENTATION OF SAME BY AGENCIES UNDER THE REHABILITATION ACT OF 1973

PART 1

FEBRUARY 20, 23, 24, 26; MARCH 30, 1976

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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REHABILITATION OF THE HANDICAPPED PROGRAMS, 1973

FRIDAY, FEBRUARY 20, 1976

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met pursuant to notice at 9:37 a.m. in room 4232, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senator Randolph.

Staff present: Mrs. Patria Forsythe, professional staff member.

Senator RANDOLPH. Now this morning we have several witnesses, the first witness of which is Dr. Peter Salmon, acting director of the National Center for Deaf-Blind Youths and Adults.

We are very happy to have you here, doctor.

Dr. SALMON. Thank you very much, Senator. Do you mind if I sit down, at my age?

Senator RANDOLPH. Yes. We want you to sit. But pull the microphone over to you, if you will. Identify yourself and the organization for which you speak.

STATEMENT OF PETER J. SALMON, LL.D., DIRECTOR, NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS, SANDS POINT, N.Y.

Dr. SALMON. My name is Peter J. Salmon, director of the National Center for Deaf-Blind Youths and Adults at Sands Point, N.Y.

Mr. Chairman, I am very happy to be here and I am going to keep my testimony very brief. I would like to submit the written statement which I have prepared.

Senator RANDOLPH. We will receive that and it will be printed in full at the conclusion of your testimony.

Dr. SALMON. Thank you.

And I would like to pinpoint some of the three suggestions that I have in this statement.

Perhaps it might be well for just a couple of minutes to remind you of the fact that the National Center was authorized under the 1967 amendments to the Vocational Rehabilitation Act and then repeated again in the Rehabilitation Act of 1973. The authorization provided for selecting an agency to carry out the program of the National Center and The Industrial Home for the Blind in Brooklyn was selected to do so.

We worked from temporary headquarters in New Hyde Park for several years and then through a very fortuitous situation we received 25 acres of choice land at Sands Point, Long Island, from the Office of Surplus Property Utilization. We are in a complex of some 200 acres. We have, as I say, some 25 choice acres of land on a complex including some 200 acres, and the Congress very generously has made the payment of the first $2,500,000 and then $5 million; and we are now at the point where we have almost completed its three buildings. We have moved into the research and training building about 3 weeks ago, and we expect that the other two buildings will be ready in about 2 months.

Incidentally, and I know this will please you very much, Senator, the research and training building will be named for the late, beloved Mary Switzer who was one of the proponents of this legislation, and it was an administration bill that she helped to get enacted through great cooperation on the part of the Congress. In fact, there was no dissent.

Now, we are at a point, which goes back to what you were saying today, where we do not come with any great problems to you today. We have to come over and over again to get the program on the road, but today we are in very good shape. We just have one or two simple matters to bring to your attention.

One of them is that we would like to drop the word "vocational" in relation to rehabilitation as far as deaf-blind are concerned. This is because of the deprivation of this group over so many years and the fact that we take many of them from all kinds of places, from homes for the retarded, where they never should have been in the first place; from mental institutions. Nevertheless most of them show great promise. We have had many breakthroughs. We concentrate on employment—both competitive employment and sheltered employment for the deaf-blind.

We think that, if the word "vocational" is left out, we will be able to give deaf-blind persons who may not be capable of remunerative employment the opportunity to become relatively self-sufficient and to make their own contributions within the community. It is a great need and we hope that the committee will give it its attention.

Another matter we would like to bring up is that, when the 1967 amendments were transferred to the 1973 act, they carried the implication, and still do, that the National Center for Deaf-Blind Youths and Adults is something new and something that is still to be implemented. What we would like to do without taking any of the authority away from the Secretary is to provide for continuing the existing agreement for the operation of the National Center without diminishing the Secretary's authority to choose another agency to operate the Center. I think it will be quite apparent to the staff when they review our proposed rewording, that we have made only minor changes in the substance of the act as it relates to the National Center.

The third suggestion grows out of a great desire that we have had. We worked very closely, as you know, over the years with Helen Keller. She spent her whole life trying to get a better day for deaf-blind persons. She realized it before she died in 1968 (June 1). If I may say, modestly and with great humility, she mentioned us in her will and commended us for the work we had been doing over the years.

She did see in her wonderful mind that there was a light at the end of the tunnel, if we can use that expression; and that there was a better day coming for the deaf-blind—and that the administration and the Congress have made it possible. Now it is up to us. We will carry forward the program with great dedication and with great zeal. We have made a good beginning during these past few years that we have had the temporary headquarters. Many deaf-blind people have been employed in competitive occupations, and in sheltered workshops, and many have contributed to the households in which they live. All of the deaf-blind persons are given individualized rehabilitation, using the same training media—home economics, the operation of motive power machinery, and other specialized types of training so that they can take their rightful place in their homes and in their communities.

We expect that we may be able to have the dedication of the Center within the next few months; and we would dearly love to have the privilege of memorializing Helen Keller. We would like to do this by simply adopting the title, "Helen Keller National Center for Deaf-Blind Youths and Adults." The short title, that might be used where appropriate, would be "Helen Keller National Center." This would indicate to everybody that the Center has to do with the deaf-blind, as everybody knows she is known and was known throughout the world as being devoted to their cause. To me it is a wonderful thing that this magnificent lady should, at the end of her life, have come to know that through the action of Congress and many other interested workers in the Government of the United States that her dream and all she had worked for was going to come to fruition. I would make a special plea with respect to the timing in the change of the name of the Center. Time is important because we would like to have the name changed before the dedication. We hope to have an artistic identification piece for the Center.

Do you have some questions, Senator Randolph?

Senator Randolph. Now if we asked you all the questions which we submitted, of course, to the organization——

Dr. Salmon. I would not have the answers.

Senator Randolph. Yes, you would, I am sure.

In your Center, your facility, Doctor, would you have the resources to take care of young deaf and blind persons? Young people will be coming out of the deaf-blind centers that are supported by the Bureau of Education for the Handicapped.

Dr. Salmon. Yes. Well, you will remember, Senator, when the legislation was proposed in 1967 there was one bill with two separate parts; one for the children, and one for the adults, and, after some thought, it was decided it would be best to have the children separate and under the administration of the U.S. Office of Education. Then somebody—I do not know who it was and I take no credit—but somebody did a very good thing, and that was to put in the word "youths" in our title, National Center for Deaf-Blind Youths and Adults, because that gives an opportunity from a financing standpoint and program standpoint for us to pick up the children after they have had every available opportunity to have any training or any education that is available to them, so we can pick them up at 16 or 18 years of age.

Senator Randolph. You do have the room and space?

Dr. Salmon. Yes. And we are working toward that goal. We, also, in connection with that, are just opening up our seventh regional office, in the United States where, in cooperation with local agencies, we will be able to serve those deaf-blind persons, either children or adults, who are not as severely handicapped as are many of the others.

We want to reserve the National Center for the most severely handicapped to be sure that now that this program has been set up for them that they do get a break and are not shunted away. We expect in addition, and have already started, to make contracts with rehabilitation centers throughout the United States, either those in work for the blind or the deaf or those working with general handicapped groups. We expect to extend service in this way to the less severely handicapped deaf-blind individuals. We give each rehabilitation agency contracting with the National Center money to employ a specialist; and then we give them complete support by having different members of our staff go out to help them—social workers, placement counselors, et cetera. We give them our moral support and stand ready to help them in any other way that we can.

This is the thing they need more than anything else because there is still a great fear of the deaf-blind. It is needless but it is there, and they need some support in order to be willing to go into the program.

Senator Randolph. Doctor, the members of our subcommittee are appreciative because it is only through you and other dedicated individuals that federally funded programs can really work. We want to commend you, not just as a pleasantry, and we want the record to show we will count on you very much in the future.

Dr. Salmon. Thank you.

I assure you that we are going to, as I say, be looking and keeping after this program. The deaf-blind are gradually going to get more and more of an adequate program and there is no one that is going to be too handicapped because of deaf-blindness that we will not serve if at all possible.

Senator Randolph. On Sunday morning, as I watched a very early morning religious service on television, a young woman was translating by manual communication. Thus, deaf persons were able to take part in that program.

Dr. Salmon. Yes.

Senator Randolph. This was on a national program, one of our networks. I do not know whether manual communication is being used generally but it was the first time really I had seen it on television.

Dr. Salmon. It is usually on educational networks. The Deafness Research Center, New York University, is the group that has spearheaded it; and I have the honor to serve with them. This is a great boon to the deaf and they are spreading out in the area of communication for the deaf very, very substantially.

Senator Randolph. Well, that is an area in which we need to do more; is it not true?

Dr. Salmon. Yes. We, at the center, have several deaf people, professional deaf people, who are on our staff and we are very, very pleased to be able to do this because they have our interests at heart and that of the deaf-blind.

Senator Randolph. Thank you, Dr. Salmon.

[The prepared statement of Dr. Salmon follows:]

STATEMENT

TO

SENATE SUBCOMMITTEE ON OVERSIGHT HEARINGS

HONORABLE JENNINGS RANDOLPH, CHAIRMAN

ON THE

REHABILITATION ACT OF 1973

AS AMENDED

WITH REFERENCE TO PROPOSED REWORDING OF

SECTION 305, TITLE III OF THE ACT

BY

PETER J. SALMON, LL.D.
DIRECTOR
NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS
SANDS POINT, NEW YORK 11050

February 20, 1976

Mr. Chairman and Members of the Subcommittee:

My name is Peter J. Salmon, Director of the National Center for Deaf-Blind Youths and Adults.

Section 305 of Title III of the Rehabilitation Act of 1973 was transferred from the 1967 Amendments to the Vocational Rehabilitation Act with only very minor changes. This leaves the impression that the National Center for Deaf-Blind Youths and Adults has not yet been established. We would like to suggest that, in preparing the 1977 Amendments to the Rehabilitation Act of 1973, Section 305 of Title III might be reworded to reflect the existence of the National Center as an established, operating entity and to memorialize the late Helen Keller who has contributed so much to its becoming a reality. With this in mind, we are taking the liberty of enclosing a suggested rewording of Section 305 of Title III of the Rehabilitation Act of 1973 for the 1977 Amendments to the Act.

Our suggested redesignation of the National Center for Deaf-Blind Youths and Adults as the Helen Keller National Center for Deaf-Blind Youths and Adults is prompted by the fact that we and a great many others who have been interested in the Center from its inception feel that it would be appropriate to memorialize the late Helen Keller by naming it after her. She was still living during most of the planning for the Center and, in a very real sense, its operation represents the fulfillment of her longest and fondest dream.

You may note that in our suggested rewording, we have deleted the word "vocational" from "..... of a center for (vocational) rehabilitation ....." near the end of Section 305 (b). While the rehabilitation services we offer to many of the deaf-blind individuals we serve result in their employment and while employment, where feasible, is a preferred objective of rehabilitation, protracted severe deprivation, poor health, or other conditions frequently preclude employment as a realistic objective for deaf-blind individuals. Nonetheless, rehabilitation for this latter group can lead to a significant reduction in their dependency with resultant substantial improvement in their morale and the release of members of their families from the confinement of providing constant attendance for them so that they can realize greater fulfillment in their lives. Further, the reduction of dependency in deaf-blind individuals can make it practicable to transfer many of them from hospitals, nursing homes, or other total care institutions to institutions that are less expensive to operate and that provide an environment that is more appropriate to their emotional and mental capabilities. If the authorization in the Rehabilitation Act were not limited to vocational rehabilitation, rehabilitation services to reduce dependency could be provided when indicated rather than being limited to the by-product of "failure" in vocational rehabilitation.

You will recall that you were instrumental in helping with the funding of the National Center, including construction. We are pleased to tell you that the new facilities for the National Center are practically completed and that we are already occupying the rehabilitation training and research building, which is being named for the late Mary E. Switzer, who was one of the prime movers in the development of the original authorization for the establishment of the Center and who worked so closely with the Congress in effecting the enactment of this authorization. We feel that in honoring Helen Keller by naming the National Center for Deaf-Blind Youths and Adults after her, we will not only recognize her great example and inspiration but that much good from this action will accrue to the work of the Center, which, we believe, will serve as a model for services to the deaf-blind throughout the world.

Incidentally, Helen Keller's birthday falls on June 27th and this adds to our reason for wanting to accomplish the change of name suggested above.

Respectfully submitted,

Peter J. Salmon

Suggested rewording of Section 305, Title III
of the Rehabilitation Act of 1973
(Public Law 93-112)

HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

Appropriation,

Sec. 305. (a) For the purpose of continuing the operation of a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated such sums as may be necessary for construction, which shall remain available until expended, and such sums as may be necessary for operations for the fiscal years ending September 30, 1977, and September 30, 1978.

Establishment,
contract
authority.

(b) In order--

(1) to provide (A) the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) to train the professional and allied personnel needed to staff adequately the facilities specifically designed to provide such services and to train such other personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 306, is authorized to continue the existing agreement for the operation of a center for rehabilitation of handicapped individuals who are both deaf and blind, or to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the operation, including construction and equipment, of such a center, which center shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults or by the short title of the Helen Keller National Center.

(c) Any agency or organization desiring to enter into such an agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of such Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

Senator RANDOLPH. Now we will have the National Association for the Deaf; speaking for that organization will be Terrence O'Rourke and Don G. Pettingill, directors of the communications skills program.

Your statement will be filed and made a part of the record at the conclusion of your testimony; please comment on the points that you would like to have the committee members understand as concerns what you have.

STATEMENT OF DON G. PETTINGILL, IMMEDIATE PAST PRESIDENT, NATIONAL ASSOCIATION OF THE DEAF; ACCOMPANIED BY TERRENCE O'ROURKE, DIRECTOR, COMMUNICATIVE SKILLS PROGRAM, NATIONAL ASSOCIATION OF THE DEAF

Mr. PETTINGILL. If you will pardon the expression, there was a communication breakdown, which is the reason why my name is not on the agenda this morning.

Mr. Chairman, I am Don Pettingill. I am immediate past president of the National Association of the Deaf and presently a board member.

This is Mr. Terrence O'Rourke, director of the communications skills program of the National Association of the Deaf.

We have prepared a comprehensive fact sheet and have handed it to you. I do not want to spend much time on that. Like you suggested earlier, I prefer to touch on the gut issues because facts and figures are useless unless people understand what the problems of the handicapped really are.

Can you understand me all right?

Senator RANDOLPH. Perfectly.

Mr. PETTINGILL. The first time I ever used one of those—microphone—I talked into it for 10 minutes before I found out it was not even working.

Senator RANDOLPH. You use your hands just like a Senator. [Laughter.]

Mr. PETTINGILL. It is hard for me to talk without doing it.

Senator, deafness is a strange handicap. It is not really a handicap as much as it is a frustrating nuisance, and yet it can be one of the most crippling handicaps imaginable. Without full understanding of the problems involved and without the skills of knowledgeable and specially trained professionals, proper and adequate facilities, and adequate funds, it is impossible to help the vast majority of deaf youth and adults to fight their way out of the morass of second- and third-class citizenship.

One of the most disconcerting problems of deafness is its invisibility.

In recent years there has been an increasing awareness on the part of the Federal Government of the various barriers: environmental, architectural, attitudinal, et cetera—which prevent a large number of our citizens from achieving full and equal opportunity in our society. And many steps have been taken to alleviate the situation along that line. However, a recent census on the deaf points out that there are 13.4 million individuals with hearing impairments. Of this number 6.6 million have a significant hearing loss in both ears and 1.8 million are severely hearing impaired. In spite of that 1.8 million, only 7,500 are being rehabilitated annually. This points out our basic concern.

In spite of legislation designed to provide adequate vocational rehabilitation service, deaf people are still underserved. I believe one of the main reasons for that is the fact that deaf people are not vocal enough. In addition to our invisibility only a few of us are capable of getting up and speaking out. The vast majority cannot.

Terry and I are not typical deaf people. We must emphasize that again and again because I would guess that with our speech and lip reading, we are representative of only 1 percent of the deaf population in this country.

The fact that I lost my hearing after I acquired speech makes it easier for me to talk to you. It does not make it much easier for you to talk to me or for us to interact. That is why interpreting services are absolutely necessary for proper interaction, and why we need more interpreter training programs.

Deaf people are the first ones to admit that, through a wise Congress, we are 20 years ahead of 10 years ago. But we must always remember where we were 10 years ago.

The Rehabilitation Act of 1973 and subsequent amendments have provided the legislative framework in which to insure the delivery of needed services. Because of the work of the Congress and the Subcommittee on the Handicapped, which are deeply appreciated by deaf people all over America, we dare hope for first class citizenship, and soon.

However, it remains to be seen whether, as you said, the intent of Congress is converted into actual programs that meet the needs of deaf persons.

We are here to see if we can assist the Congress and the subcommittee to meet those needs.

No new research in the area of deafness has been instituted by RSA since 1973. The need for research is great. For instance, to investigate the adequacy of service delivery within a State and/or regions would be most helpful for future planning. Additionally there is a need for research on telephonic assistance devices for deaf people, or physical and mental restoration, consumer involvement, and environmental improvement as they relate to deaf people.

In one minute I will turn the floor over to Mr. O'Rourke. But I do want to point out one more thing which concerns us. Under the Rehabilitation Act of 1973, provisions were made for establishing training centers for low-achieving deaf adults, but almost nothing has been done along that line. And now an estimated 100,000 deaf youth and adults who are handicapped to the extent that they require many and varied special services that only such a facility can provide are still waiting for such special training.

Mr. O'Rourke, go ahead.

Senator **Randolph**. Thank you very much, Mr. Pettingill. You make your points well and what you are saying is understood. You could also be an effective teacher of prominence.

Mr. **Pettingill**. Thank you.

Senator **Randolph**. Mr. O'Rourke?

Mr. **O'Rourke**. Senator Randolph, first of all I would like to add something to what Don said about the invisible handicap of deafness.

About one year ago I was visiting a program in St. Paul, Minn., the Technical Vocational Institute which I think is a very good program for deaf students. I was staying at a motel near there. I know the director and he was to pick me up in the morning after I had someone call for me. Then he would come and pick me up. So after I had breakfast in the morning I wrote a very brief note giving my name, his name, his phone number, and a very brief message saying——

Senator **Randolph**. Will you stop a moment.

The two gentlemen who are leaving the room are West Virginians and you would not mind my calling attention to the fact that they are here and they are intensely interested in this subject matter. We appreciate the fact that they have stayed even longer than perhaps their schedule downtown might have allowed.

Thank you very much.

Mr. **O'Rourke**. So I asked the girl behind the desk to make a phone call for me. I wrote it out. I handed her the note and apparently she understood I was deaf because she wrote back an answer. She said, "You have to use the pay phone in the lobby."

Now the point I want to make here is there are many people who do not understand a basic fact; that is, the deaf people cannot hear. And I think that is basic to understanding of all programs relative to deafness. There are many people who look at me and cannot understand that I cannot hear. It is important that they understand that I am dependent on my eyes. Maybe Congress should pass a law during the next session requiring that all deaf people cut off their ears. That might make their handicap noticeable.

You may have noticed that a few times during Don's address that he stopped talking. That was because you were looking the other way and this relates to my point about eye contact. A deaf person is so dependent on using his eyes that when a person is not watching he thinks they are not listening.

There are only three things I want to cover very briefly here.

One relates to training. Perhaps the weakest link in rehabilitation service delivery is the fact that we do not have enough people who are trained to work with the deaf, especially people who have knowledge and skills of both manual communication and the social and psychological implications of deafness.

Right now for example there may be only 600 certified interpreters in the country. There is a need for perhaps 4,000 or 5,000. Now there are only 600 and it is very difficult to implement programs when you do not have the people who can provide these services.

And the quality of the service is directly dependent on the people who are to provide those services. So there is a great need for more training programs in this area.

I would also like to point out three areas in the Rehabilitation Act of 1973 that perhaps require more clarification in terms of how that will be implemented for deaf people.

One is the State plan requirement. It is very difficult for deaf people because of the communication barrier to get input into the State plans. Now that the Government is decentralizing and much of the programs are drafted into the regions and the States, it becomes very important that deaf people be involved in planning at the State level. Deaf people who are familiar with the model State plan for rehabilitation for deafs should be involved in State planning and to do this they also need the services of interpreters.

It is important that guidelines be set up to assure that deaf people get into this planning to make sure that they are not overlooked when the States do assume full responsiblity for the programs.

Also, the individual written rehabilitation plan was established as a way to insure that clients are involved in their own rehabilitation. But for deaf people that written plan becomes a very, very difficult thing to implement because agencies do not have those who are skilled in communication with deaf people who can involve them in making that plan, and also because of the complexities of language involved in the plan itself. It also tends to exclude rather than to encourage deaf people to be involved in rehabilitation programs.

There is one other thing in the act, I would like to mention, the guidelines for providing deaf people with teletypewriters and other telephonic assistance devices. This is mentioned in the Rehabilitation Act but is not clarified, and many States have not yet implemented this not knowing how to implement it.

But the most important thing I would like to mention is the fact that deaf people do not have input into the policymaking level of government. At the present time perhaps the only office within the whole Federal structure that focuses singularly on problems of deafness is the Office of Deafness and Communicative Disorders in which we have some input. But this Office has for the past 30 years been limited more or less to a consulting role. It does not have a legislative base and does not have programing authority. While the Federal Register establishes both the Office of Deafness and Communicative Disorders and Office for the Blind and Visually Handicapped equally in terms of their function, the OBVH has been moved up to an assistant commissioner level whereas the Office of Deafness and Communicative Disorders remains more or less as a consulting department only.

I do not really think that deaf people in this country will achieve complete equality under law until someone qualified and knowledgeable on deafness can be put into the Secretary's Office for Planning and Policy Development. Then perhaps deaf people will be heard.

Thank you, Senator.

Senator RANDOLPH. Thank you very, very much for your testimony. I commend you, both of you gentlemen, Mr. O'Rourke and Mr. Pettingill for the vigor with which you present your points. It is indicative of your intense interest in the needs and achievements of deaf persons.

I think that perhaps you would be interested in knowing that here on Capitol Hill we are trying to lessen this communications gap between hearing and hard of hearing persons. The staff members of some of the members of the Senate subcommittee are taking lessons in manual communication. I know I stopped by one day and it was gratifying to me to know that these individuals are students of sign language. But perhaps because they are doing that, they will be better able to help their Senators and the offices in which they are employed to work. I think that this is at least some plus we can make here on the Hill.

I think sometimes we are often prone to apply things to someone else but never participate in it ourselves; of course, this is an indication of staff members trying very diligently to be more effective in this area.

Thank you very much, both of you, for your testimony.

[The prepared statement of Mr. Pettingill follows:]

STATEMENT OF DON G. PETTINGILL

IMMEDIATE PAST PRESIDENT

NATIONAL ASSOCIATION OF THE DEAF

PRESENTED BEFORE A HEARING OF

THE SUBCOMMITTEE ON THE HANDICAPPED

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

PERTAINING TO

THE REHABILITATION ACT OF 1973, AS AMENDED

FRIDAY, FEBRUARY 20, 1976

Mr. Chairman, I am Don G. Pettingill, Immediate Past President and Member of the Board of the National Association of the Deaf. Accompanying me is Terrence J. O'Rourke, Director of the Communicative Skills Program, a Rehabilitation Services Administration-supported project of the National Association of the Deaf which is helping alleviate the communication barriers faced by deaf people of our land. We appreciate this opportunity to appear before the Subcommittee to present this statement which reflects not only the concerns of the 43 State Associations comprising our National Association, the largest consumer organization of the deaf in the world, but also the concerns of those professional organizations that work closely with us to assist in our efforts to provide equal opportunity for American citizens who share an invisible handicap - the handicap of deafness.

In recent years there has been an increasing awareness on the part of the Federal government of the various barriers - environmental, architectural, attitudinal, etc. - that prevent a large number of our citizens from achieving full and equal opportunity in our society. A recent study supported by RSA (The Deaf Population of the United States by Jerome D. Schein and Marcus T. Delk, Jr., 1974), the first census of the deaf population of the U. S. in over 40 years, shows that the number (13.4 million) of individuals with hearing impairments comprises what is perhaps the largest group of disabled individuals with a single handicapping factor. Of this number 6.6 million have significant hearing loss in both ears and 1.8 million are deaf (cannot hear and understand speech). Yet not more than 7,500 deaf persons are being rehabilitated annually. This fact points out our basic concern. In spite of legislation designed to provide adequate vocational rehabilitation services, deaf people are still underserved.

One of the main reasons for the fact that deaf people are underserved is, if you will excuse the expression, the fact that they are not "vocal" enough. The system with its communication barriers effectively excludes the deaf person from active participation in the many areas that involve decisions as to his own destiny.

The fact that I lost my hearing after I acquired speech makes it possible for me to communicate to you; however, it does not allow me to communicate with you. Interaction is the basis for effective communication, and without an interpreter I would be severely limited in my ability to interact with you. Thus without interpreting services the average deaf person is faced with a virtually insurmountable communication barrier. It should thus be pointed out that interpreting services and the training of rehabilitation personnel to use manual communication are essential to the effective delivery of services. This cannot be overemphasized. So if it is repeated again and again in this presentation, do not be surprised.

The Rehabilitation Act of 1973 and subsequent amendments have been a big step forward in providing the legislative framework with which to ensure effective delivery of services to the disabled. The work of Congress and the Subcommittee on the Handicapped are deeply appreciated by deaf persons throughout the country. What now remains is to see whether the intent of Congress is converted to actual programs that meet the needs of deaf persons. We are here now to see if we can assist the

Subcommittee and Congress in identifying those needs as perceived by the individuals and groups served by our association. Each of five general areas will be covered in order of ascending priority.

RESEARCH

No new research in the area of deafness has been instituted by RSA since 1973. The need for research is great. The National Census of the Deaf provided solid demographic data which should be used as a basis for in-depth research efforts. Must we wait another 40 years for follow-up? Shouldn't an annual survey be undertaken by RSA now that the base for data collection has been established. A survey to investigate the adequacy of service delivery within a State and/or Region would be most helpful for future planning. Additionally, there is a need for research on telephonic assistance devices for deaf people, employment, physical and mental restoration, consumer involvement and environmental improvement as they relate to deaf people.

Out of the almost 11 million dollars provided for the 19 Research and Training Centers funded by RSA, New York University's Research and Training Center on Deafness (RT 17) ranks 17th in appropriations, receiving only $250,000 annually. It is the only such Center which addresses itself directly to the problems of deafness, yet it receives a funding priority that does not allow it to maintain the vigorous and productive programs that would be expected to emanate from the one national RT center of its kind. Strengthening this program would strengthen all programs on deafness.

FACILITIES

The United States provides a better educational system for deaf persons than exists elsewhere in the world. Opportunities for post-secondary training of deaf students have increased forty-fold over the past ten years. Yet, while there are more and more opportunities for higher education, there has been no concentrated effort to provide adequate services for severely handicapped deaf adults. Demographic data on the population of schools and classes for the deaf indicates a growing number of deaf persons with multiple handicaps, many as the result of the rubella epidemic a decade ago. Yet, no long-term comprehensive facility to serve the estimated 100,000 deaf youth and adults who are handicapped to the extent that they require the special services that only such a facility can provide, has been established. Section 304(b)(1) - Special Projects for Deaf Individuals Who Have Not Achieved Their Vocational Potential--has led to the establishment of three facilities which are demonstrating the fallacy of three-year grant programs as a means of meeting substantially the long-term comprehensive service needs of severely handicapped deaf people. At present not more than 200 severely handicapped deaf persons are being served at any given time at the three projects and not more than 30-40 are being rehabilitated annually. A long-term comprehensive facility to meet the service needs of this population, perhaps along the lines of the National Center for Deaf-Blind Youths and Adults, is thus urgently needed to cover both present and future needs of this population.

(2)

RSA pioneered research, demonstration, and training programs in the area of mental health services to deaf people. However, there are few substantial programs throughout the country. Consequently thousands of deaf people are vegetating in institutions for the mentally ill and mentally retarded. Many of these people are capable of being trained and living independently thus becoming tax payers rather than tax consumers. Each RSA Region should have at least one in-patient center for the deaf mentally ill. For economic reasons these can and should be a part of an existing hospital, but they must have independent staffing and administration. The important thing here is to capitalize on the significant thrust that was generated by previous RSA spade work.

TRAINING AND MANPOWER

Perhaps the weakest link in our rehabilitation service delivery system, especially as it relates to deaf persons, is the critical shortage of professional manpower. Without highly skilled professionals the best conceived program or facility is doomed to failure. A simple, but often misunderstood fact is that the quality of services to deaf people relate to and depend primarily on the qualifications of the providers of services. To adequately serve deaf people we must have professionals who are both skilled in manual communication and knowledgeable about the psychological and sociological impact of early profound deafness.

At the present time we have only a handful of centers preparing professionals to enter this field. Funding for these programs is far from adequate and should be greatly increased if we truly expect to reach those who are most in need. For example, at the present time there are less than six hundred certified interpreters in all of the country when in fact five thousand are needed. This same situation applies when we look at counselors, psychologists, vocational evaluators, etc. What we have had up to this point is only token involvement. Professional training funds earmarked for this work are vital if we are to ensure that deaf citizens are entitled to equal protection under the law.

Assuming that we were to somehow prepare sufficient personnel a further problem remains in ensuring that funds are available to pay for those services. This is especially critical in the case of interpreters. At the present time some States allocate funds for interpreting services for Vocational Rehabilitation agencies while others do not and essential services are not made available because of the lack of funds for interpreters. Interpreters are also needed to provide cross-agency services such as SSI and SSDI. Again, there is a need to earmark funds in state agencies specifically for the purchase of interpreting services.

IMPLEMENTATION

There are a number of specific sections within the Rehabilitation Act of 1973, as amended, that are of special interest and concern to deaf persons. Of primary concern to our members is the implementation of the State plan requirement. If such State plans are to be effective in meeting the needs of deaf persons, then deaf persons familiar with the Model State Plan for the Vocational Rehabilitation of Deaf Clients must be directly involved with State agencies developing such plans as members of Advisory and/or Planning Committees. Such direct involvement would ensure that the invisible handicap is not once again overlooked and that interaction would lead to appropriate action.

The 1973 Rehabilitation Act has made it abundantly clear that the client will be assured of his rights relative to full participation in his rehabilitation planning. The implications of this for deaf clients are to assure full and adequate communication between Client (consumer) and Counselor (vocational rehabilitation agency). This amounts to a mandate to provide professional staff competent enough to relate to deaf clients in meaningful terms. However, to date, we have not seen the kind of commitment required to fulfill this expectation. Elements of the Model State Plan designed to assure this quality of relationship between the deaf client and the vocational rehabilitation agency have not been implemented with the urgency required. Deaf clients continue to be served by countless professionals unable to effectively communicate with them.

Further, the IWRP has taken the form in some states of a rigid procedural requirement which has stifled the effective delivery of services to clients at their level of need. This pseudo-contract arrangement is fraught with language complexities which further provide barriers to the client understanding of services. The result if that clients become discouraged by what they view as unnecessary red tape procedures which they fail to understand. Counselors, unable to implement these procedures with deaf clients, tend to discourage the referral or fail to attend to the needs as identified by the client.

In summary, while the IWRP professes to guarantee the client participation in his rehabilitation program, communication barriers combined with the complexity of the procedural system serves to achieve the opposite effect.

The Rehabilitation Act of 1973 also make reference to the purchase of telecommunication devices for deaf persons, but lacks guidelines for the conditions under which such can be purchased. There is a great need to clarify the intent of this section.

OFFICE OF DEAFNESS AND COMMUNICATIVE DISORDERS

Perhaps the greatest concern of deaf people today has to do with our lack of input at decision making levels of government. Historically, programs have been planned for not with deaf people. This is not intended as a criticism of the R.S.A. Office of Deafness and Communicative Disorders. This small, seriously understaffed office, has for years been quite responsive to the needs of deaf people. The problem stems from the fact that ODCD has little, if any, influence at the policy making level and has no budget with which to carry out programs. Nor does it have a legislative base to ensure that, no matter what administrative changes are made, the needs of the nation's deaf people will always be adequately served.

While the Office itself has been given additional responsibilities as RSA has grown over the years, it now has fewer professional staff positions than it did a few years ago and still functions as a consulting rather than programming office. It is crucial, since the Office of Deafness and Communicative Disorders is the only existing Federal office exclusively serving the needs of deaf people that the office be given the appropriate legislative and fiscal base to carry out its function.

The NAD is pleased to see that RSA has recently elevated the Office of the Blind and Visually Handicapped to the Assistant Commissioner level. Since the functions of the Office of Deafness and Communicative Disorders, as outlined in the Federal Register, Vol. 36, No. 111, Wednesday, June 9, 1971, are identical to those of the OBVI, it would seem plausible for the Subcommittee to recommend that Congress enact similar legislation to provide equal status for the Office of Deafness and Communicative Disorders and to authorize additional staff for the ODCD as was done for the OBVI in the 1974 amendments to the Vocational Rehabilitation Act. However, since the problems of deafness go beyond those of rehabilitation and are presently receiving little attention outside of RSA, the ultimate need is to have a qualified person within the Secretary's Office of Planning and Policy Development who will represent the area of deafness. Only then will the needs of America's deaf citizens be adequately served by their government.

We wish again to thank the Subcommittee for this opportunity to present our concerns and welcome questions from members of the Subcommittee - if they will utilize our interpreters to help us break the communication barrier.

Thank you.

Senator **Randolph**. Mr. Schloss and Mr. Gashel, if you will come to the witness table.

Mr. Irvin Schloss, will you identify yourself and give us the organizations that you represent here today?

STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS OFFICE, AMERICAN FOUNDATION FOR THE BLIND

Mr. **Schloss**. My name is Irvin P. Schloss and I am the director of the Governmental Relations Office of the American Foundation for the Blind.

In addition to representing the foundation, I am also representing the American Association of Workers for the Blind and the Blind Veterans Association.

Senator **Randolph**. Speak a little louder or pull the microphone closer to you.

Mr. **Schloss**. Yes, sir.

Shall I proceed?

Senator **Randolph**. Yes, indeed.

Mr. **Schloss**. Thank you.

I have submitted my written statement; and as requested, by the subcommittee, I will be glad to summarize it. We are recommending a number of amendments to the Rehabilitation Act of 1973 which we believe will enhance its effectiveness. I would like to summarize these amendments and discuss them very briefly. With your permission we would like to submit a supplementary statement that would embody some draft legislative language to implement the proposals.

Senator **Randolph**. That will be agreeable and helpful. It will be included in the record at the conclusion of your testimony.

Mr. **Schloss**. First, we would like to endorse the recommendation made earlier by Dr. Salmon to change the name of the National Center for Deaf-Blind Youths and Adults to the Helen Keller National Center for Deaf-Blind Youths and Adults. We certainly agree that this would be a fitting memorial to a person whose personal demonstration and dynamic leadership on an international basis inspired many to establish national programs for blind, deaf, and deaf-blind individuals in various parts of the world.

Our second proposal deals with the provision of rehabilitation services to older blind persons. As you know, the population of middle-aged and older blind persons is the largest among the blind population—some three-quarters are 40 and over. And as blind individuals progress in age, and since most blindness occurs in middle age or later in life, agencies have a tendency to underserve the group.

As you know, Senator Randolph, you recognized this problem in 1972 and introduced legislation that would authorize a specific target program to provide this kind of rehabilitation service to individuals 55 and over who are blind.

As a result of the problems stemming from the vetoes of legislation in 1972 and early 1973, a residual program was added to section 304 of the Rehabilitation Act of 1973 as special project authorization. There are now six States which are operating special projects in rehabilitation of older blind persons at a cost for the current fiscal year of $441, 000.

We know that these special projects programs are demonstrating that middle aged and older blind individuals can be rehabilitated for gainful employment. For those for whom gainful employment is not the ideal objective, their training for personal management skills and other daily living skills has made it possible for them to stay out of institutions and function fully in their homes.

So we know that the program is effective. We recommend an amendment that would add the provisions of S. 7 of the 93d Congress concerning rehabilitation services for older blind persons to the Rehabilitation Act of 1973 for the fiscal years 1977 and 1978, with authorizations of $7.5 million for fiscal year 1977 and $20 million for fiscal year 1978.

The important thing is that age should not be a barrier to the rehabilitation of blind individuals.

Senator RANDOLPH. That is correct, Mr. Schloss. The barrier of age flows across the body politic in this country. For example, the recession hits hardest and quickest the middle aged and the older worker population of the United States.

I have held hearings as a member of the Special Committee on Aging. I remember one in Chicago a few months ago in which there was documented the fact that a layoff within a plant comes more quickly and lasts longer to the middle aged and older working population.

The point that you make here is in reference, of course, to the handicapped; it also extends in a broader context. Would you agree?

Mr. SCHLOSS. Yes; I certainly do.

What you have said has relevance to the third point we would like to recommend and, that is to assure the specific applicability of the Age Discrimination Act of 1975 to the programs under the Rehabilitation Act of 1973. The Age Discrimination Act of 1975 will become fully effective on January 1, 1979, but we would like to see a provision requiring its application in the rehabilitation programs. In this way, we believe that all types of individuals, or individuals with all types of handicaps, I should say, will be entitled to receive certain rehabilitation services under the act.

Our next recommendation deals with incentive grants to States which rehabilitate and place in competitive employment at the minimum wage or better, severely handicapped individuals. We would like to recommend what could be a very simple formula of a specific dollar amount times the number of severely handicapped individuals rehabilitated for competitive employment at the minimum wage or better, paid to the States in the fiscal year following the year in which the individuals are rehabilitated.

According to the Department of Health, Education, and Welfare, the differential between the mean cost of rehabilitating severely handicapped individuals in 1975 and handicapped individuals who were not severely impaired in 1975 was approximately $440. The number of severely handicapped individuals rehabilitated in 1975, according to HEW, was approximately 40,000, that is, rehabilitated for competitive employment at the minimum wage or better. This would result in a cost, if this provision were in effect now, of only $17.6 million. We believe, since the thrust of the Rehabilitation Act of 1973 is to give a priority to severely handicapped individuals, that the States could benefit from this additional financial assistance—

not to mention the fact it would be a great incentive to provide effective and adequate service to severely handicapped individuals.

We would like to recommend expansion of the client assistance program under section 112 of the act. At present, there are 18 client assistance projects in existence at an annual cost of $1 million. From indications that we have had, these client assistance representatives are effectively serving handicapped individuals and their families in an ombudsman capacity; and we believe that it would be desirable to expand the program over the next 2 years to cover all of the States. We recommend an authorization of $4 million in fiscal 1977 to do this and $8 million for 1978.

Our next recommendation deals with the statutory establishment of a National Advisory Research and Training Council on Rehabilitation Services. The purpose of such a council would be to review applications for grants and contracts for research and for training of personnel and advising the Secretary and the Commissioner on the merits of those grant applications. This type of peer, consumer, and citizen participation in the grant-making process is currently in effect in many Government agencies. Notably, the Public Health Service's National Institutes of Health have such bodies. We believe it would be necessary to have a statutory provision authorizing establishment of such an advisory council in the Rehabilitation Act of 1973.

In addition, we think it would be desirable to provide for publication in the Federal Register 30 days after an award is made of some basic details about the award—the title and purpose of it, the amount of the award, the grantee or contractor, the duration of the project. We believe that this would be most helpful to everyone interested in the effectiveness of research and training of personnel under the Rehabilitation Act of 1973.

Another recommendation we would propose for your consideration is the strengthening of evaluation of rehabilitation potential provisions, so that every severely handicapped individual will be afforded an opportunity to have maximum evaluation services for up to the 18 months specified in the act.

There is no question that with adequate extended evaluation service, many severely handicapped individuals who might otherwise be declared unsuitable for vocational rehabilitation will prove to be capable of taking full training programs and going on to employment.

Further, we would recommend adding provisions for comprehensive rehabilitation services similar to the provisions of title II of S. 7 of the 93d Congress, with the proviso that these comprehensive rehabilitation services would apply to severely handicapped individuals only after extended evaluation services. But, in any case, there should be a mandatory referral for these comprehensive rehabilitation services, so that these individuals can be given an opportunity to achieve maximum functional independence.

We had expected that the American Council of the Blind would be on the panel with us today and would actually appear before us. I understand they are appearing on Tuesday.

Our next proposal is endorsing one of their recommendations joined in by the American Coalition of Citizens with Disabilities, and that is the establishment under the Rehabilitation Act of 1973 of State planning councils. This is a provision which is patterned after similar provisions in Public Law 94-103, Developmentally Disabled Assistance and Bill of Rights Act. We believe this will enhance the growth and development of rehabilitation programs at the State level.

Similarly, we are endorsing the recommendations that these organizations will make next Tuesday for amendments to sections 501 of 503 of the act to establish a mechanism for speedy and effective handling of complaints through the use of arbitration panels. These proposed provisions have a timetable which would require that all the proceedings be completed within 90 days after a complaint is filed. We believe this complaint mechanism is simple and workable and would be very helpful in enhancing the implementation of these two sections—section 501, to facilitate employment of qualified handicapped individuals with the Federal Government, and section 503, to facilitate employment of qualified handicapped individuals by Government contractors.

Similarly, we would recommend the use of arbitration panels to handle complaints under section 504 of the Rehabilitation Act, the section prohibiting discrimination against handicapped individuals federally assisted programs. Unfortunately and inexcusably, the Office for Civil Rights at HEW has still not issued regulations to implement section 504. Without regard to that fact, we still believe arbitration panels would be an effective way of handling complaints.

In addition, we would recommend—Let me say first, before I go on to the next point—the arbitration panels for all of these sections are patterned after arbitration panel mechanisms in the Randolph-Sheppard Act Amendments of 1974.

As I said earlier, we believe it is simple and can prove to be very effective in handling of complaints.

Another amendment we would propose for section 504 would be to assure the applicability of section 504 to the State and local Fiscal Assistance Act of 1972, the general revenue sharing act. We have heard that Treasury Department officials do not believe that section 504 would be applicable to it. Therefore, we believe an amendment saying that it is applicable would be very helpful.

In addition, in view of the delay in issuance of regulations by the Office of Civil Rights at HEW, we would recommend a specific timetable in the law concerning issuance of regulations by other Federal agencies which will be administering section 504 programs.

Finally, as far as section 504 is concerned, we would recommend a study of patterns of discrimination against the handicapped by the U.S. Commission on Civil Rights similar to the study authorized by the Age Discrimination Act of 1975, without the study foreclosing immediate implementation of the provisions of section 504 of the act.

We would also suggest an amendment to strengthen the provision regarding State agency status in order to prevent situations like the one presently occurring in Florida, where vocational rehabilitation service becomes diffused and diluted by reorganization of State agencies. We believe that strengthening of the administrative structure of the State vocational rehabilitation agencies and assuring their visibility and financing at a high level of State government would be most helpful.

One of the things we have been concerned about over the years is closer coordination of the Federal-State rehabilitation program with manpower programs generally with regard to development of germane and timely information about labor market conditions and development of new occupations and jobs generally. We believe it would be helpful to specifically indicate the need for State vocational rehabilitation agencies to work closely with manpower agencies, specifically on the job bank authorized by the Comprehensive Employment and Training Act.

I have another suggestion for an amendment which I did not cover in my written statement and which stems from a late reading of the part of the sheltered workshop study which indicates there was a definite need for improvement of standards. I am sorry. In transmitting the sheltered workshop study, the Secretary of HEW indicated that the Commission on Accreditation of Rehabilitation Facilities and the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped had been working on this and that there are a number of such facilities which are being accredited. But the Secretary also indicated that he recommended more intensive activity by the voluntary sector, the State governments, and the Federal Government to insure improvements in the standards of service.

We think it is timely to recommend a phased-in requirement for accreditation of agencies from which State agencies purchase services for handicapped individuals—perhaps a requirement that would specify that by September 30, 1980, these agencies had to be accredited by a recognized accrediting body before services could be purchased from them.

Before closing, I would like to discuss briefly S. 2019, a bill which authorizes wage supplements to handicapped individuals in sheltered workshops and work activity centers. The three organizations I am representing are opposed to this concept for a number of reasons.

First, it sets up a cash welfare program outside the SSI program under the Social Security Act with a rather difficult and artificial criterion of eligibility—physical presence in a workshop or work activity center.

Second, there would not be enough workshops or work activities centers to allow otherwise qualified handicapped individuals to obtain these cash payments.

Third, we believe that the supplements as provided in S. 2019 are contrary to the letter, spirit, and intent of section 504 and will result in litigation under section 504 and on Constitutional grounds. Otherwise qualified handicapped individuals are going to be barred from getting those cash grants simply because there would not be any room for them. And finally, we believe it has the potential for locking into sheltered employment those individuals who might otherwise be motivated to seek better paying competitive employment.

In conclusion, Mr. Chairman, we hope that the committee will give favorable consideration to our recommendations for improvements in the Rehabilitation Act of 1973 and that it will not act favorably on S. 2019. As I indicated earlier, we will be pleased to submit a supplementary statement detailing the proposals that we are making in legislative form.

Mrs. FORSYTHE. Mr. Schloss, I am sorry. The Senator had to take a phone call. And I would ask you to continue with your testimony. He will be back shortly.

[The prepared statement of Mr. Schloss follows:]

AMERICAN FOUNDATION FOR THE BLIND, INC.
50 YEARS OF HELPING BLIND PEOPLE BECOME JUST PEOPLE

STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS OFFICE, AMERICAN FOUNDATION FOR THE BLIND, TO THE SUBCOMMITTEE ON THE HANDICAPPED, COMMITTEE ON LABOR AND PUBLIC WELFARE, UNITED STATES SENATE, ON THE REHABILITATION ACT OF 1973

February 20, 1976

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to appear before you to present the views of three national organizations on the implementation of the Rehabilitation Act of 1973.

The three organizations I am representing are the American Association of Workers for the Blind, the national membership organization of professional workers serving blind persons; American Foundation for the Blind, the national voluntary research and consultant agency in the field of services to blind persons of all ages; and Blinded Veterans Association, the Congressionally-chartered membership organization of the nation's warblinded.

All three of these organizations supported improvements in the Federal-state program of vocational rehabilitation of the nation's disabled which resulted in enactment of the Rehabilitation Act of 1973. Today, we are advocating additional improvements which, we believe, will enhance the effectiveness of this vital program in restoring handicapped individuals to gainful employment and maximum independence.

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2.

We advocate the following amendments to the Rehabilitation Act of 1973:

1. A change in the name of the National Center for Deaf-Blind Youths and Adults to the Helen Keller National Center for Deaf-Blind Youths and Adults.

2. Establishment of a special program of Rehabilitation Services for Older Blind Persons with its own authorization of appropriations for services, as well as research and demonstration projects.

3. Assurance of the applicability of the Age Discrimination Act of 1975 in determining a handicapped individual's eligibility for and receipt of rehabilitation services.

3. Establishment of a program of incentive grants to the states based on the number of severely handicapped individuals rehabilitated and placed in competitive employment at the minimum wage.

5. Establishment of a client assistance project in each state with separate authorizations of appropriations.

6. Establishment of a National Advisory Research and Training Council on Rehabilitation Services to review applications for research and training grants and contracts under Title II of the Act and to advise the Secretary and the Commissioner on the merit of such applications.

7. Requirement that each severely handicapped applicant for vocational rehabilitation be afforded an opportunity for extended evaluation of his rehabilitation potential.

8. Establishment of a program of comprehensive rehabilitation services with separate authorizations of appropriations for severely handicapped

3.

individuals certified as having no vocational rehabilitation potential after extended evaluation services.

9. Establishment of State Planning Councils.

10. Establishment of arbitration panels to handle complaints under: (a) Section 501 of the Act, the affirmative action program to facilitate Federal employment of qualified handicapped individuals; (b) Section 503 of the Act, the affirmative action program to facilitate employment of qualified handicapped individuals by government contractors; and (c) Section 504 of the Act, prohibiting discrimination against qualified handicapped individuals in Federally-assisted programs.

11. Assurance of applicability of Section 504 of the Act to the State and Local Fiscal Assistance Act of 1972.

12. Strengthening of administrative structure of state vocational rehabilitation agencies.

13. Utilization of the Job Bank established by the Comprehensive Employment and Training Act.

Helen Keller National Center for Deaf-Blind

As you know, Section 305 of the Rehabilitation Act of 1973, as well as the predecessor Vocational Rehabilitation Act, authorized the establishment and operation of the National Center for Deaf-Blind Youths and Adults. The Secretary of Health, Education, and Welfare contracted with the Industrial Home for the Blind of Brooklyn for the establishment and operation of the Center, and the new facility is virtually ready for use at Sands Point, Long Island.

This facility will serve as a model world wide for the rehabilitation of deaf-blind individuals and as a focal point for the development and application of innovative techniques and devices. It is most fitting, therefore, that the name of the Center be changed to the Helen Keller National Center for Deaf-Blind Youths and Adults to memorialize the internationally renowned deaf-blind leader whose personal demonstration and dynamic leadership inspired so many people throughout the world.

Rehabilitation Services for Older Blind Persons

One of the major gaps in services to blind persons in the United States continues to be lack of provision of adequate rehabilitation services for middle-aged and older blind persons. According to the National Society for the Prevention of Blindness, three-fourths of the legally blind population is 40 years of age and older; and three-fourths of all new blindness occurs in the same age group. The National Center for Health Statistics of the U.S. Public Health Service reports that close to one million of the estimated 1.3 million people in this country with severe visual impairment are 45 and older. Rehabilitation programs tend to concentrate on blind and visually impaired individuals of optimum employable age and serve very few middle-aged and older blind persons.

With appropriate training in mobility and other techniques of doing things without sight, middle-aged and older individuals can frequently be assisted to retain their jobs--jobs in which they have had many years of experience. Others may require vocational retraining as well and can take advantage of old skills and extensive work experience to train for a new job, given the proper vocational rehabilitation assistance. The important thing is that age should not be regarded as a barrier to vocational rehabilitation of blind and visually handicapped persons.

5.

The distinguished chairman of this Subcommittee, Senator Jennings Randolph, recognized this and introduced legislation in the 92nd Congress authorizing a small target program of rehabilitation services for older blind persons. Following the vetoes of H.R. 8395, the Rehabilitation Act of 1972, and of S. 7, a similar bill, early in the 93d Congress, both of which incorporated this target program for older blind persons, the Congress found it necessary to cut back several of the programs authorized in order to obtain Presidential approval of the current Rehabilitation Act of 1973.

As a result, Section 304 of the Act now authorizes special projects in the rehabilitation of older blind persons. Currently, six states are conducting special projects in the rehabilitation of older blind persons at an annual cost of $441,000. These states are: Arkansas; Colorado; Oregon; Texas; Virginia, and West Virginia.

We believe that the program provided for in S. 7 of the 93d Congress should be included in the Rehabilitation Act of 1973 for fiscal years 1977 and 1978, with authorizations of $7.5 million for the first year and $20 million for the second year.

Age Discrimination Act

Public Law 94-135, the Older Americans Amendments of 1975, enacted into law the Age Discrimination Act of 1975. When fully effective on January 1, 1979, this Act will have important implications for the proper provision of rehabilitation services to middle-aged and older handicapped individuals, if properly administered.

We recommend that the Rehabilitation Act of 1973 be amended to clearly assert the applicability of the Age Discrimination Act of 1975 to all rehabilitation programs under it.

6.

Incentive Grants

By providing for a priority in service to the severely handicapped, the Rehabilitation Act of 1973 refocused the primary thrust of the Federal-state vocational rehabilitation program on the needs of individuals who had previously been underserved. Since vocational rehabilitation services to severely handicapped persons frequently require more time at greater cost, both the American Foundation for the Blind and the Blinded Veterans Association believe that it would be desirable to assist the states in carrying out this mandate by instituting a program of incentive grants based on the number of severely handicapped individuals rehabilitated and placed in competitive employment at the minimum wage or better.

The simplest mechanism for implementing an incentive grants program of this type would be to establish a formula whereby each state is paid a specific dollar amount for each severely handicapped individual rehabilitated and placed in competitive employment at the minimum wage or better during the preceding fiscal year. In view of the fact that each individual so placed would be removed from, or prevented from going on, the supplemental security income (SSI) rolls under Title XVI of the Social Security Act, an incentive grants program of the type we are suggesting would be cost-effective.

Optional methods of calculating incentive grants would be to reimburse states for 90 percent or 100 percent of the cost of rehabilitating and placing severely handicapped persons. It should be noted that the disability insurance program under Title II of the Social Security Act, as well as the SSI program, authorize the full cost of rehabilitation services to be covered for individuals referred from these income maintenance programs.

Client Assistance Projects

At present, client assistance projects under Section 112 of the Act are in effect in 18 states at an annual cost of $1 million. We believe that this program should be expanded over the next two years to cover all states and that the program should have a specific authorization of appropriations. Accordingly, we recommend an authorization of appropriations of $4 million for fiscal 1977 and $8 million for fiscal 1978. This will allow for orderly expansion in a program which is demonstrating that it is of substantial help to handicapped persons and their families.

National Advisory Research and Training Council

We strongly recommend the establishment of a National Advisory Research and Training Council on Rehabilitation Services to review and advise the Secretary and the Commissioner on grants and contracts for research and demonstration projects and for training of rehabilitation personnel under Title II of the Act. A statutory advisory council of this type is highly desirable to provide peer, citizen, and consumer participation and review in the grant-making process. Similar advisory councils are statutorily required under the Public Health Service Act and we believe that the Rehabilitation Act of 1973 should include provision for a similar body.

We would also recommend that Title II of the Act be amended to require that the title and purpose of the project, the amount of the award, the duration of the project, and the name of the grantee or contractor be published in the Federal Register within 30 days of approval. We recommend that this provision for publication of details of awards apply to grants and contracts under Title III of the Act as well as Title II.

Extended Evaluation

We urge the Subcommittee to amend the Act to assure that each severely handicapped client is afforded the requisite amount of extended evaluation of rehabilitation potential up to the 18 months maximum before being considered unsuitable for vocational rehabilitation. Only in this way can each severely handicapped person and his family be assured that he has been given every opportunity to achieve his maximum potential.

Comprehensive Rehabilitation Services

We recommend establishment of a program of Comprehensive Rehabilitation Services with a separate authorization of appropriations similar to the provisions of Title II contained in S. 7 of the 93d Congress. This program should be designed to assist severely handicapped individuals for whom there is no clear vocational potential after extended evaluation to achieve maximum functional independence in daily living activities.

Referrals to this program should be mandatory but should be made only after extended evaluation services.

State Planning Councils

We endorse the proposal of the American Council of the Blind and the American Coalition of Citizens with Disabilities for an amendment to the Rehabilitation Act of 1973 authorizing the establishment of State Planning Councils. As you know, this proposed amendment is patterned after a similar provision of Public Law 94-103, the Developmentally Disabled Assistance and Bill of Rights Act. We believe that these Councils can be a genuine asset in the growth and development of state vocational rehabilitation programs.

9.

Arbitration Panels

One of the major shortcomings in the provisions of Section 501 of the Act, establishing an affirmative action program to facilitate employment of qualified handicapped individuals by the Federal Government, and of Section 503, establishing a similar affirmative action program for government contractors, is lack of a simple and speedy grievance mechanism.

The American Council of the Blind and the American Coalition of Citizens with Disabilities have proposed such a mechanism. They are recommending amendments to the Rehabilitation Act of 1973 to authorize arbitration panels to handle complaints under these two sections, with a timetable for action by the panels designed to ensure prompt but thorough consideration. We endorse these proposals and believe that the use of arbitration panels will provide an efficient and fair grievance procedure while eliminating interminable bureaucratic red tape.

With regard to Section 504 of the Act, which prohibits discrimination against qualified handicapped individuals in Federally-assisted programs, we can only express our keen disappointment in the bureaucratic procedures which have delayed the issuance of proposed rules and regulations by the Office for Civil Rights in the Department of Health, Education, and Welfare. There is no reasonable excuse for this delay.

The absence of regulations notwithstanding, we believe that the use of arbitration panels to handle complaints under Section 504 as proposed by the American Council of the Blind and the American Coalition of Citizens with Disabilities provides an effective and speedy way of handling complaints under Section 504.

10.

We understand that the Treasury Department is questioning the applicability of Section 504 to the State and Local Fiscal Assistance Act of 1972 (general revenue sharing). To avoid any chance of misinterpretation, we would strongly urge an amendment to the Rehabilitation Act of 1973 clearly including the State and Local Fiscal Assistance Act of 1972 in the programs covered by Section 504. As you know, this was done in the Age Discrimination Act of 1975.

In view of the delay in the issuance of regulations by HEW's Office for Civil Rights, we would also urge an amendment to Section 504 establishing a timetable for issuance of regulations by all Federal agencies administering assistance programs.

Finally, we would like to recommend an additional amendment to Section 504 authorizing a study of patterns of discrimination against handicapped individuals by the U.S. Commission on Civil Rights similar to the study authorized by the Age Discrimination Act of 1975. The purpose of this study would be to identify patterns of discrimination in all aspects of life and to make recommendations for eliminating discrimination. The study should not foreclose immediate implementation and enforcement of Section 504.

State Agency Structure

As you know, reorganizations of state government have the potential for vitiating the effectiveness of vocational rehabilitation of the handicapped by diluting and diffusing the administrative structure of state agencies providing services to clients. The situation in Florida is a current example.

We therefore recommend amendments to Title I of the Rehabilitation Act of 1973 designed to strengthen the integrity of state vocational rehabilitation agencies and assure their position at a high enough level of state government to guarantee adequate visibility and financing.

Utilization of Job Bank

Over the years, we have advocated better coordination of vocational rehabilitation programs for the disabled with general manpower programs for the purpose of utilizing information on current labor market conditions and long-term trends in job development. Therefore, we recommend an amendment to the Rehabilitation Act of 1973 to provide for utilization of the computerized Job Bank authorized by the Comprehensive Employment and Training Act to facilitate joint-client-counselor decisions on training objectives and job placement activity.

Wage Supplements

It is with regret that we must register our strong opposition to S. 2019, a bill which would authorize payment of wage supplements to handicapped workers in sheltered workshops and work activity centers. Although we are sympathetic to the intent of this bill, we believe that there are better and more equitable ways of achieving its purpose.

S. 2019 has a number of disadvantages. First, it establishes a cash welfare program parallel to, but outside of, the SSI program with the criterion of eligibility being physical presence in a sheltered workshop or work activity center. Second, there are not now and will never be enough sheltered workshops or work activity centers to accommodate the two million or more handicapped individuals who would otherwise be eligible for additional money payments. Third, it would be a violation of the letter, spirit, and intent of Section 504 of the Rehabilitation Act of 1973 and would result in litigation under it and on constitutional grounds by handicapped individuals barred from sheltered workshops and work activity centers. Fourth, the bill would tend to eliminate incentive for handicapped workers to seek better paying competitive employment and lock them into sheltered employment on a long-term basis.

For these reasons, we urge the Subcommittee not to act favorably on S. 2019. We will be glad to work with the sponsors of the bill and other interested organizations to seek to achieve its worthwhile objectives through other means, notably improvements in the SSI program.

Conclusion

In conclusion, Mr. Chairman, the implementation of the Rehabilitation Act of 1973 and studies authorized by it have indicated the need for certain specific improvements. We are recommending for your consideration improvements we feel are desirable at this time. We urge your favorable action on our recommendations.

Senator **Randolph**. Mr. Gashel.
Mr. **Gashel**. Thank you.

STATEMENT OF JAMES GASHEL, CHIEF, WASHINGTON OFFICE OF THE NATIONAL FEDERATION OF THE BLIND

Mr. **Gashel**. My name is James Gashel and I am chief of the Washington office of the National Federation of the Blind which is of course, as the Senator knows having affiliates in his State as in many other States, the largest membership organization of the blind.

I am going to skip over the first part of my statement and move to the areas of discussion and begin from there.

First is the State agency organizational structure. Originally established and conceived as a distinct program directed at meeting the employment needs of persons with physical disabilities, the vocational rehabilitation programs have gradually become submerged into larger units of State government. The principle invoked seems to have been that of economy of scale. The usual public administration theory is that organizational concepts must follow functional lines. Thus, it is reasoned that it takes the same type of skill to buy a typewriter as it does to purchase a battleship; to collect sales taxes as to collect income taxes; to account for equipment as to account for revenues; and to build highways as to build hospitals.

While this typical public administration model meets the presumed advantages of a neat organizational chart, we contend it has always failed and still fails to meet the actual human needs of programs designed to assist people. Particularly, this is true of vocational rehabilitation programs which ought to be of necessity oriented toward meeting the specific needs of each individual to be served.

With this as a background we totally and unequivocably oppose any proposals which would seek to abandon the concept that vocational rehabilitation services must be provided by a distinct unit of State government.

Now the trend toward larger and larger agencies is, in our view, the most ominous threat which vocational rehabilitation has ever confronted. Specifically, in State after State the distinct status and integrity of programs for the blind has been traded for administrative arrangements which divide decisionmaking, dilute service delivery, and disperse accountability. Under these plans the people who suffer are those who were supposed to be reached.

Senator **Randolph**. I often use the theory that the show on the big tent should not be second to the side shows round about. Is that it?

Mr. **Gashel**. I think that is the point I make.

In the area of service to the blind there is as Mr. Schloss said, certainly a need in this area, pointing out that while 60 percent of the blind population is over the age of 65, often they do not have the services available to them.

Mr. Chairman, we conclude that these experimental delivery systems do not have the advantages which the organizational theorists and efficiency experts repeatedly proclaim. Rather than resulting in more appropriate and better services reaching the client, they have always entangled him in mounds and mounds of paperwork and endless yards of redtape.

Senator RANDOLPH. Mr. Gashel, I do not mean to interrupt, but you mentioned the mounds and mountains of paperwork.

Mr. GASHEL. And yards of redtape.

Senator RANDOLPH. And yards of redtape, that is true. This is a matter of real concern, and your mentioning it gives us an opportunity to realize that it is detrimental to the very efficiency with which governments serve people. We want necessary information, of course, from business or any organization. People generally want to supply information to the Government, but you know, the Government is the instrument of the people. Government is only an expression of people at work. And we must not allow the situation to continue as it is.

Mr. GASHEL. Senator, we are still after it today and we will get it cornered sooner or later. We think a major step in services for the blind would be for the Congress to authorize and expand services for the blind in actually a new title under the act—services which, in fact, would extend beyond those ordinarily associated with the vocational objectives but nevertheless services which are needed.

Senator RANDOLPH. We want to give the services which meet the basic needs. Is that what you are saying?

Mr. GASHEL. Yes. The programs should be operated in a manner which emphasizes as I say the original employment objectives but at the same time does not preclude providing for other services and providing funds for those services.

I have got here—Well, let me demonstrate the kind of thing I am thinking about.

Senator RANDOLPH. What I am trying to say—I agree with you. I know many companies in the country who had stock on the New York Stock Exchange and it is not on the stock exchange at all anymore because the company that knew how to do its job decided that it would become a conglomerate and would get into many, many fields, spread itself thin, we will say. And for a lack of management the company that was successful is not even doing business now. We have to watch that also, do we not, Mr. Gashel? In any program.

Mr. GASHEL. Exactly. We say they ought to be administered as a single unit and total package, and this package should include a whole range of service, and we think that the present structure precludes this type of activity.

The concept of independent living rehabilitation has been around for some time. In the 1973 act, largely as a result of the increased emphasis on services to persons with the most severe disabilities, the Congress directed the Secretary to conduct a comprehensive study of the needs of such individuals. One of the concerns raised in the comprehensive needs study is the feasibility and desirability of establishing an independent living rehabilitation program.

The National Federation of the Blind recognizes the need for developing improved services to disabled individuals who are not adequately served or for whom there is no clear and reasonable expectation of achieving the employment objective currently in the act. While entering this new phase, however, we must add a word of caution. The original objective of rehabilitation was to place the disabled into productive employment, and therefore, new initiatives must now be allowed to erode the efficacy of this concept.

In the area of service to the blind, this package contains the traditional vocational rehabilitation services, along with other services which are not specifically defined as vocational rehabilitation, even though many have a clear relationship to the employment objective.

Among these services are: (1) counseling services to blind children and their parents; (2) production and distribution of special reading materials and specialized equipment to blind persons of all ages; (3) both medical and educational services directed toward the prevention of blindness; (4) services to deaf/blind youths and adults; (5) homemaker and other home instruction programs for blind individuals; (6) the distribution of talking book machines and cassette tape players; (7) warehousing and distribution of special aids, appliances, and devices utilized by blind persons in doing without sight many of the things for which sight is used by those who possess it; (8) services to older blind persons; (9) orientation, mobility and personal adjustment services; and (10) other social, educational, and employment related services designed to increase the independence and self-sufficiency of individuals who are blind or visually impaired.

It is our position, Mr. Chairman, that this broader range of services provided to blind persons by agencies serving the blind should be recognized under the Rehabilitation Act and that Federal funding should be made available for such purposes. Particularly, we would emphasize that such funds should be granted in a manner which does not simply add to the burden of administering already complex programs. In fact, the intent of our recommendation is to free State agencies for the blind from the substantial burden of administrative detail which now impedes their efforts to offer appropriate services to individuals who need them.

In placement in competitive employment, among the many recommendations of the comprehensive needs study is the finding that agencies for the blind must respond to the need for more imaginative leadership in efforts to place clients in the competitive labor force. Indeed this underscores what we, the blind, have argued for years. Despite our expressed desire for innovative approaches in expanding employment opportunities for the blind, there is still a severely limited range of employment options available to all but the most aggressive.

While it is true that the traditional stereotyped occupations of chair caning and broom winding are being replaced, it is equally true that the tendency to limit vocational choices still prevails. Thus, although we have progressed somewhat in the direction of more challenging and appropriate employment objectives, clients are too often restricted to certain predetermined areas such as computer programing and teleservice information work. In fact, these are now becoming the new stereotypes. Even more distressing, though, is the continued and unchecked reliance on sheltered workshops as places of employment for the blind.

Mr. Chairman, while we will have more to say about the findings and recommendations of the sheltered workshop study as they relate to services to the blind, we take this opportunity to urge the subcommittee to establish training and placement emphasis on employment in the public and private sectors outside the sheltered environment of the workshop. Priorities should also be given to use of on-the-job training as a means of preparing handicapped individuals for entry into the competitive labor force in view of the finding by the study that jobs traditionally available in the workshops are of little value in preparing handicapped individuals for work in open industry.

A necessary first step in implementing a priority system particularly with respect to closures, is to require State agencies to separate out and publicly disclose the number of closures they achieve in variously specified categories, that is those rehabilitated into competitive employment, those placed in workshop facilities, those closed as unpaid family workers, and so on. This type of reporting system would give an improved picture of placement activities, and it would be to the benefit of all parties concerned. We are aware that there has been much talk of a weighted closure system, and we strongly urge implementation of arrangements which will curtail the numbers game in favor of services to clients.

With regard to sheltered workshops as employment, training, and placement facilities, the 1973 act directed the Secretary to conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals. The study conducted by Greenleigh Associates has now been transmitted to the Congress with appropriate recommendations of the Secretary.

Upon reviewing the findings of this report we were not at all surprised to find many conclusions similar to those contained in testimony which we have presented to the Congress for years. For example, the study reveals that workers in the shops are paid at a level far below the poverty line. Even though workshops for the blind tended to have wages higher than general workshops, the average earnings of the blind worker were found to be only $2,610 annually. Also as we have repeatedly testified, the placement efforts of the workshops were found to be virtually nonexistent with workshops for the blind lagging behind general workshops and having a paltry 7 percent placement rate according to the study.

Mr. Chairman, as we have consistently urged, we believe that it is time for the Congress to act on behalf of those disabled and blind Americans who have been pushed aside from the main channels of economic productivity. The data has been gathered and the studies are complete. The time for solutions is now at hand.

Today we renew our call for the rights of those Americans in sheltered employment outside the competitive labor force. Mr. Chairman, we believe that justice demands that these disabled individuals be guaranteed at least the Federal minimum wage and that they be afforded the full benefits of workman's compensation and additional fringe benefits which are normally considered a right of workers in competitive industry. In addition, there must be full recognition of the right of workers in sheltered employment to organize and bargain collectively. There is literally no justification for continuing to foster a system which, according to the study, perpetuates a category of second class workers.

Mr. Chairman, we are particularly distressed that workshops for the blind have resisted the need for reform and have instead sought to cloak themselves with respectability through a process of accreditation by the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped. Indeed, the study discloses the true failings of such workshops and thus reveals that accreditation has, more often than not, served as a means of propping up a sagging system which has neglected its obligation to respond to the needs of those it purports to serve. If accreditation of workshops for the blind by NAC is ever to become meaningful, it must find ways of reflecting the best interests of the clients. Such interests include requiring that workers receive at least the minimum wage, that every effort be made to place them in competitive employment, that goals be set and shops be expected to maintain a high level of performance with respect to actual placements in open industry, and that clients who work in the sheltered settings be afforded all rights, privileges, and benefits of workers in competitive employment.

This morning in his testimony, Mr. Schloss has proposed that workshops be required to submit to accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (NAC). With respect to workshops for the blind, we are flatly opposed to any requirement of accreditation by NAC. The experience itself as reported in the Study is support enough for our position. Accreditation by NAC has not improved the workshops; it has stifled their initiative.

Furthermore, the American Foundation for the Blind has a controlling financial interest in NAC, and its views have, therefore, dominated the accreditation process. Its position that accreditation should be required is nothing more than selfserving. We believe that standards for workshops should be left to State determination, and that no changes should be made in the law.

Turning to the matter of the means test. The regulations currently in place offer the States an opportunity to impose a test of economic need on vocational rehabilitation clients. We strongly oppose continued use of the means test since we think it is counterproductive with respect to fulfilling the purposes of the Rehabilitation Act.

A disabled individual's need for services is derived not from his economic status but from the fact of his disability. The period of adjustment and rehabilitation is also one of severe economic stress for the individual and those around him. It is incongruous, therefore, to condition training opportunities on the client's ability to pay for them.

Actually, the Rehabilitation Act and the regulations recognize the validity of this argument by providing that a test for economic need may not be imposed on provision of certain specified services—evaluation of rehabilitation potential; counseling, guidance, referral services; and placement. The point is surely clear. The principle has been established that there shall be no economic need test for certain types of vocational rehabilitation services.

Mr. Chairman, we see no justification for imposing such a test arbitrarily on eligibility for other services and thereby discouraging or deterring disabled individuals from taking advantage of such services. We do not believe that a serious cost factor is involved, and we therefore urge the prohibition of a means test.

We have yet another concern in this regard. The act and regulations also provide that the State agencies must make a maximum effort to take advantage of other grant assistance in developing arrangements for paying the costs of training in institutions of higher education. While we recognize the validity of the principle of utilizing the resources of other grant programs, we also are aware of major abuses of this provision as it has been interpreted in the States.

Mr. Chairman, we accordingly urge the Subcommittee to clarify the congressional intent on this issue. Every effort must be made to assure that endeavors to take advantage of other available resources will not themselves be used as a means or an excuse for providing funding through vocational rehabilitation when such funding is called for under the circumstances.

On client assistance, the 1973 act authorized funding of client assistance pilot projects. We believe that the times demand rethinking of this program. The emphasis, in our opinion, ought to be on client advocacy. The client assistance projects have perhaps served a useful function insofar as they have better informed some disabled individuals about the nature of the rehabilitation process and the rights and opportunities available through it, but in this regard these projects have merely served a function which should be expected of all VR personnel, especially rehabilitation counselors.

To solve the problem which is only partly and inadequately addressed by the client assistance project concept, we recommend the establishment of a complaint and appeals procedure which could be operated similar to the hearings and appeals process under the Social Security Act.

The current regulations require that State agencies provide opportunity for administrative review and for a fair hearing, but if clients are aware of these options at all, they often see them as empty gestures. As in other programs, such as Social Security, Veterans, and now the Randolph-Sheppard Vending Facilities program, the actual concept of due process must prevail in vocational rehabilitation.

Mr. Chairman, we are particularly pleased that the subcommittee and the Congress saw fit to provide for a fair hearing and arbitration process to deal with disputes which arise in the administration of the program authorized by the Randolph-Sheppard Act. We believe that this was one of the major steps forward taken in the 1974 amendments. Because of this action, blind vendors are no longer solely at the mercy of administrative whim. They now have both arbitration and judicial review.

As a means of guaranteeing the client's rights and enhancing his full participation in the rehabilitation process, we recommend implementation of a uniform and fair complaint and appeals procedure. There are, as indicated, several models now operating in various of the human service programs. The social security form, with perhaps slight modifications, is the most appropriate for VR programs, which have three levels of administration; State, regional, and national, each of which might serve as a level for receiving and processing appeals, with the guarantee of judicial review.

Section 501 of the Rehabilitation Act requires Federal agencies to develop and file with the Civil Service Commission affirmative action plans under which they will employ and advance in employment qualified handicapped individuals.

For a long time the Federal Government has had what has been termed as a selective placement program for the handicapped. It was to this unit of the Civil Service Commission that the new duties of affirmative action have been assigned. As far as we can tell by first-hand experience, there has been little movement beyond the more traditional selective placement concept into the new and more enlightened era of affirmative action for the handicapped in Federal employment.

It is ironic, Mr. Chairman, that while the Federal Government seeks to require Government contractors to develop and implement affirmative employment programs, similar initiatives in Federal Government employment are so limited. Instances of open discrimination against the blind who attempt to enter Federal employment are abundant. One blind attorney was first accepted on the basis of his personal qualifications and later rejected on the basis of his blindness for a position with the Internal Revenue Service as a revenue officer. Another blind man was told that he could not be employed as a contract compliance officer with the Department of Labor because of his inability to drive an automobile. The job was in an urban area with public transportation readily available. A third blind applicant was rejected as a social security claims representative on the basis that he could not handle the heavy reading involved, and he was advised to apply for a teleservice information specialist position. When he did so, this blind man was once again rejected because he was considered overqualified.

The common element in each of these cases, aside from the fact of discrimination, is that those aggrieved had no recourse for reversing the unjust action. Certainly we do acknowledge and salute progressive efforts of Federal agencies to employ blind and disabled individuals, but the success stories should not cause complacency when it comes to protecting the rights of those for whom the system has not worked as may have been intended.

The problem in this area of Federal employment, Mr. Chairman, is that there is usually nowhere to turn when an opportunity has been denied and when that denial seems to be unjust. If affirmative action is to be at all meaningful, it must truly be more than a paper promise. To insure that this will be the case we call for a complaint procedure, drawing the concept from section 503 program. It is imperative that such a complaint procedure be uniform, and to accomplish this, its administration should be placed in the hands of the Civil Service Commission. We would be opposed to a system which would assign complaint review and processing solely through the agency which denied the employment or advancement in the first place. Also, there must be a guarantee for judicial review of decisions rendered by the Civil Service Commission.

The complaint procedure which we recommend would utilize the already existing Federal employees' appeals authorities, which exist at the regional level in the civil service system. FEAA's would receive, investigate, and resolve complaints brought by handicapped individuals who believe that any Federal agency, department, or instrumentality is failing to comply with the affirmative action provisions of section 501. Consistent with due process, the Appeals Review Board of the Civil Service Commission would also accept cases under this section brought on appeal from the FEAA's. Finally, there must be assurance by the Civil Service Commission and each Federal agency, department, or instrumentality that a finding of agency noncompliance with affirmative action provisions will result in a reversal of the action which prompted the complaint originally. A major problem which has existed is that even when handicapped individuals have been able to prove discrimination, the original decision is maintained. It is alleged that there exists no authority for reversing a personnel action, once it has been made. Thus, even though the handicapped individual is successful in proving his case, he may not be afforded the opportunity to work.

The Congress must now act, Mr. Chairman, to make the promise of section 501 come true.

We thank you for having us here this morning, and we stand ready to answer any questions.

Senator **Randolph**. Mr. Gashel, I shall not ask you any questions because of our limited time. We have asked the questions that you are asking really of the agency. We are in agreement with many of the points that you are making. I am very appreciative of the testimony that you both have given. You are both very knowledgeable and articulate. We thank you very much.

Our next witness is Mr. Lancaster. But before you begin, Mr. Lancaster, we are very fortunate this morning to have briefly with us at this hearing Mr. Richard Buck of Boston, Mass., who has come by. We hope to discuss a little later in these hearings some problems in connection with pending transportation legislation. I asked him if he would come to the hearing room particularly because he is a vice president of the American Public Transit Association; and in that capacity he has functioned especially well in working out programs of accessibility for the elderly and the handicapped from the standpoint of not only their usership of the various forms of mass transit in the Boston area, and throughout the country as well. He is a personnel director; but his expertise and understanding of this problem is nationwide.

Mr. Buck, if you would briefly comment on what you and the members of your Public Transit Association are doing in Boston, I think it would be helpful for the record.

STATEMENT OF RICHARD BUCK, VICE PRESIDENT OF AMERICAN PUBLIC TRANSIT ASSOCIATION, BOSTON, MASS.

Mr. **Buck**. Thank you very much, Senator.

As the vice president of the American Public Transportation Association and in direct charge of the elderly and handicapped, we are working with consumer groups to promote the feasibility and accessibility of public transportation for the elderly and the handicapped and indeed endeavoring to formulate national guidelines and standards by which all transit departments will adhere to and particularly to work out special requirements for the elderly and the handicapped inasmuch as the capital improvements programs that you have been involved in and in making money available for mass transit, indeed insures a manner of getting these capital funds that elevators and escalators and convenience facilities and other assistance be made available to the elderly and the handicapped.

In this I think principally we made our greatest stride and our greatest headway in making available on a national level as far as it has been feasible one-half fares for the elderly and the handicapped in nonpeak hours and will strive at our executive conference to come up with some guidelines that can be worked out with the consumer groups in the promotion of the complete accessibility in mass transportation for the elderly and the handicapped.

Senator **Randolph**. Let us think for a moment, Mr. Buck, about the handicapped. What would you say has been done in the BART program in the San Francisco area from the standpoint of the use?

Mr. **Buck**. BART, of course, during the middle of its construction reconsidered as a result of your insistence to install elevators that are for the exclusive use of the elderly and the handicapped and not only as it relates to BART but also a U.S. organization program in Boston. For example, these things are being taken into consideration and worked on now in both planning and that work currently out under contract. So that BART is completely accessible because it is absolutely the newest system in the United States.

It has those facilities that have been made available through capital finance programs as I pointed out, the elevators, the escalators, and the half fares. Those programs have been implemented and are actually in operation at this time.

Senator **Randolph**. Have you been doing anything about braille buttons within elevators?

Mr. **Buck**. No. For the most part when the elderly and the handicapped indicate that they wish to use them, one of the starters operates it with a key to see to it that the passenger is taken to the proper level.

Senator **Randolph**. There is someone handling the elevator?

Mr. **Buck**. That is right.

Senator **Randolph**. In other words, are you saying that there is an effort being made in mass transit systems so that handicapped persons have access and useability of transit equal to that of nonhandicapped persons?

Mr. **Buck**. Absolutely. This is a condition of the capital grants and without that money—it is not forthcoming unless this consideration is given.

Senator **Randolph**. Thank you very much, Mr. Buck, for stopping by and saying hello to us. The Congress is aware of and concerned about the mobility problems of handicapped persons. Work is being done, belatedly in some instances, but would you say that there is a purpose now and that there is an eagerness to do this work?

Mr. **Buck**. There certainly is motivation because without capital funds there is no mass transit program per se. But there is the financial motivation but strictly in a serious sense, Senator, there is truly a substantial effort being directed by all the procedures in the United States toward the elderly and the handicapped. And I pointed out to you the special emphasis by the State of Delaware in the remarkable job they have done with the elderly and the handicapped. For example, we refit five buses for their complete use to bring them back and forth for therapy and what not, to the various institutions in and around Boston. There are services available by simply dialing. And they will come right to your home and pick up.

Senator **Randolph**. Thank you very much.

Off the record.

[Discussion off the record.]

Senator **Randolph**. Mr. Lancaster?

STATEMENT OF JOHN A. LANCASTER OF THE PARALYZED VETERANS OF AMERICA

Mr. **Lancaster**. Yes, Senator.

Before I get into my remarks, while Mr. Buck is here I would like to address this whole problem of transportation for the handicapped. I would like to state the views of the Paralyzed Veterans of America.

No. 1, we appreciate Mr. Buck's and your concern and the people in private industry and what they are doing in providing mass transit for the handicapped. But we do not think significant steps are being taken at all. We see in fact very firm action on the part of the urban mass transportation authority of the Department of Transportation to delay every possible way they can——

Senator **Randolph**. You mean Urban Mass Transit Authority (UMTA)?

Mr. **Lancaster**. UMTA is doing everything they can by failing to promulgate regulations and distribute money and provide transportation throughout this Nation, not only rail systems but also buses. UMTA is currently involved as defendants and fighting strongly the actions taken by private consumer organizations to make buses accessible in 12 different cities in the United States, in law suits. Fortunately there is one enlightened judge in Milwaukee that has—a Federal district court judge—who has issued a temporary restraining order on that mass transit facility not allowing them to purchase 100 new buses until they are accessible. And the funds obviously would have come from the Urban Mass Transit Authority with 80 percent of matching funds. Believe me, UMTA was there swinging with everything they had to see that the judge would not issue the temporary restraining order and this is the attitude UMTA has been taking throughout.

The executive branch of our Government, the Department of Transportation, is not in favor of full accessible transportation for handicapped people.

Senator **Randolph**. Just a moment.

Mr. Buck, do you subscribe to this?

Mr **Buck**. I am familiar with the cases he has been discussing, Senator, and I do not subscribe to the fact that UMTA was dragging its heels on this. It is a massive problem. In particular this concerns already built systems, such as Boston, New York, and Philadelphia. Let me tell you, Senator, and reassure you that the capital funds for station organization and for new transit programs such as there is currently underway in Washington, D.C., do answer the needs or attempts to answer the needs for the handicapped person for total accessibility. I do share partially your viewpoint but I would not like you to believe, Senator, for one moment that industry or UMTA have been dragging their heels. As far as I can see, and I deal with them on a personal basis, Mr. Patricelli assures me that they are going full steam ahead with their program. I think it is that it just takes a great deal of time to implement it. It is a nationwide program and at present tremendous cost but it certainly is not being pushed under, backward, under any circumstance.

Mr. **Lancaster**. I cannot agree with that in any way, Senator.

Your mass transit authority is deliberately delaying these things. And I can see——

Senator **Randolph**. Just a moment. I am being very understanding, but I am presiding at the hearing. I want you to speak as strongly as you wish, and I want you to bring to our attention the criticisms that you have. Do not misunderstand me. However, I was only attempting to see what comments you might have in reference to this matter. I was not attempting to have you and Mr. Buck to clash on this matter. Frankly, if UMTA is dragging its feet, we in the subcommittee and the Congress will find it out. So you criticise and bring these matters to our attention and we will try to change the situation. Hopefully, the industry, the associations like Mr. Buck's association, will want to help us. That is the only theory you can work on. And I will work on it and I am sure Senator Stafford and others will. I did not realize that UMTA was dragging its feet. This is something that I had not known. But if it is and the facts are so and you certainly speak here with good conscience and information available to you, what you say will be helpful to the subcommittee.

Now, strike your blow.

Mr. **Lancaster**. Just to reenforce what you said and to help you we will document within the next month to your staff instances, step by step, with reference to the whole problem, and we will show you several examples where they have done this. And one is in southern California. We have the documentation on that. We will give a clear picture of the way UMTA acts in these matters.

Senator **Randolph**. John, you do that and we will correct this situation.

Mr. **Lancaster**. It will be to you within the next month.

I would like to say at this point that I guess I am a little testy about these things and I apologize because the Paralyzed Veterans of America does appreciate the work that Senator Randolph and Senator Stafford and Senator Williams and other members of the Subcommittee on the Handicapped have done, not only for our organization but all the handicapped people and I am sure you realize our pressures and concern.

I would like to add for the record that we fully endorse the comments that will be made by the American Coalition of Citizens With Disabilities when they testify on Tuesday.

The first blatant problem existing in the act lies in the implementation of Title I, Vocational Rehabilitation Services. The services provided under this title are not effectively reaching the catastrophically disabled citizens as intended. State vocational rehabilitation programs are still failing to provide quality services for the severely handicapped. Dr. Andrew S. Adams, Commissioner of the Rehabilitation Services Administration, pointed out many of the problems associated with the implementation of Title I in his testimony in joint hearings held on December 10, 1975, on the extension of the act. We hope that this subcommittee will continue to oversee his Commission's efforts in rectifying the problems they so readily identified.

With respect to Title II, Research and Training, section 202(b)(2), (3), and (4) of the act, the Paralyzed Veterans of America has paramount concern. So many of our catastrophically disabled members are victims of a regressive system which makes them dependent upon the Government for their health and welfare rather than living an independent, self-respecting life, earning a wage, paying taxes, and contributing to society.

PVA fully endorses the concept and wording of section 202(b)(2), (3), and (4) and urges its full financial support. To further these ends of significant spinal cord injury research, PVA has created a Technology and Research Foundation which will expend 100 percent of its funding to support worthy research projects in spinal cord injury and disease which will have potential spinoff benefits to others suffering from various catastrophic disabilities. However, our efforts cannot begin to meet the need for this kind of research; greater Federal funding is needed.

Another major area of concern for the Paralyzed Veterans of America is in sections 501 and 503 of the act. These sections attempt, to the extent possible, to create equal employment opportunities under the law for persons with severe disabilities. However, we question the effectiveness of these provisions in the absence of any semblance of an enforcement mechanism.

We would recommend that these sections be amended to provide for accountability not only on the part of the Federal Government but also on the part of private industry contracting with the Federal Government. In order to insure affirmative action on the part of Government contractors, there should be accountability in the form of quick and easy retrieval of pertinent information pertaining to the employment and promotion of handicapped persons. This committee should look toward writing into the law some form of pre-award and post-award provisions in order to see that every contractor dealing with the Federal Government is complying with section 503, both within the Federal sector and within private industry contracting with the Government. Unbiased arbitration panels, consisting partly of handicapped persons, should be provided for the settlement of grievances arising under both sections 501 and 503. Presently, these affirmative action plans have had little effect in resolving the problems of severely handicapped or disabled persons seeking gainful employment, and will not unless firm and effective enforcement mechanisms are built into the law. Further, there should be significant outreach and publicity efforts mandated on the part of the Department of Labor and private industry in order to make handicapped persons aware of their rights under the law.

Section 502, pertaining to the architectural and transportation barriers compliance board, is a totally ineffective and ill-conceived piece of legislation, and as a result, the accomplishments and effectiveness of the board are nonexistent.

This committee need only look at the day to day business of the board to realize that it does not work. The board, to date, has hired only one compliance officer who is trying to catch up on a backlog of over 300 complaints. It is further significant to note that the board has not even set any standards for complaints or compliance review procedures. The board has not established or developed any architectural or transportation standards. The board has no effective enforcement mechanism in actuality and there is no judicial review of their determinations.

Does this committee really think that the A&TBCB is going to have the courage to withhold urban mass transportation's administration funds to a major city for failure to buy accessible buses when one of the members of the board is the Secretary of Transportation or his designate? Section 502 has mandated that they do so, yet they do not. The same question could be asked about a housing project funded by HUD.

The Paralyzed Veterans of America believes that the architectural and transportation barriers compliance board should be completely restructured to be an autonomous entity with its own line item in the Federal budget. We believe the board should be composed of seven members from outside of the Federal Government, at least four of which would be handicapped persons. Each member should bring to the board a professional expertise, such as architecture, law, medicine, construction, business, et cetera. The members should be nonpaid Federal advisers appointed for the sole purpose of setting general guidelines and policy within the law, section 502, and overseeing a professional paid staff that would implement the law.

Second, the board should be fully funded to the extent authorized in order that it might properly monitor all activities of Government agencies and handle all complaints. Third, the board should be specifically mandated not only to insure compliance with Architectural Barriers Act of 1968, but also the 1970 amendments to the Urban Mass Transportation Act, the 1974 amendments to the Federal Aid Highway Act of 1973, and various other provisions of title XVI. Fourth, there should be a judicial review of the board's administrative proceedings.

Finally, we would like to make a brief comment on section 504 of the act. Since well over 2 years have elapsed since the passage of this act and the executive branch of our Government has taken absolutely no steps toward the implementation of this section of the act, we recommend the following legislative action:

(1) The enforcement of section 504 should be specifically given to the Attorney General of the United States.

(2) The Civil Rights Act of 1964 should be amended so that 42 United States Code, section 2000(a) reads:

> All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodations as defined in this section, without discrimination or segregation on the ground of race, color, religion, national origin, or mental and/or physical impairment.

and further that 42 United States Code section 2000(d) read:

> No person in the United States shall, on the ground of race, color, national origin, or mental and/or physical impairment, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

If this could be done we would not have any problems in such areas as transportation, housing for handicapped persons, and a lot of other problems we presently have.

I appreciate the opportunity to be here and appreciate that our full comments will be put into the record as if they had been read.

If the Senator was here I would like to ask—he said in his opening remarks that there are over 200 questions which were sent to Secretary Mathews of HEW and he was asked to respond by Feburary 25. I think that is what the Senator said. I was wondering if the Paralyzed Veterans of America could possibly get a copy of those 200 questions that were submitted to the Secretary, and I wonder if we could not get a copy of his responses to your committee so that we might respond from the way we see it because we have a lot of contacts and dealings on a day-to-day basis with the staffs and their people lower down that actually implement the law and some of the things they tell us we realize do not always quite jive with the reports that the Secretary might make to this committee.

So we would like a chance to respond to those questions and respond also to the answers that he gives you to those questions.

I do not know if you can make that statement or commitment for the Senator. I doubt that you can. But if you could pass that information on to him and possibly ask him if we could a have copy of not only the questions but Secretary Mathew's responses.

Mrs. **Forsythe**. I think the Senator would certainly agree that you may have a copy of the questions. I have a copy here. And I think the implication of what I heard him say in his opening statement was that he would share the responses with you or with any of the other organizations.

Mr. **Lancaster**. Thank you.

Mrs. **Forsythe**. I think the Senator would also want me to thank you, Mr. Lancaster, for your testimony. Unfortunately he has been called out on another emergency call. Since you are the final witness I think he would also announce that the next hearing is on Monday at 9:30, same room, 4232.

[Whereupon, the hearing was adjourned at 12:10 p.m.]

REHABILITATION OF THE HANDICAPPED PROGRAMS, 1973

MONDAY, FEBRUARY 23, 1976

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington D.C.

The subcommittee met, pursuant to recess, at 9:40 a.m., in room 4232, Dirksen Senate Office Building, Senator Jennings Randolph (subcommittee chairman) presiding.

Present: Senators Randolph, Schweiker, and Stafford.

Staff present: Patria Forsythe, professional staff member, and Jackson M. Andrews, minority counsel.

Senator RANDOLPH. A pleasant day to all of you who have come to the second day of our oversight hearings.

We are talking, as many of you know, on the problems of the implementation of the Rehabilitation Act of 1973.

I appreciate the attention being given to these hearings by those who represent organizations who are knowledgeable about the rehabilitation programs. I hope that not only the witnesses who have appeared but the witnesses who are to appear will recognize that we are very desirous of having viewpoints expressed on the problems.

Research and training are problems of primary interest to the members of our subcommittee, and of Senator Stafford, who is the ranking Republican member of the subcommittee. It was impossible for him to participate in the first hearing, but I do recall Senator Stafford and I met last November with about 30 members or representatives of rehabilitation agencies and organizations.

We talked about the importance of this subject matter and what we hoped could be done. Training and research, of course, is a major matter. Other issues are services to the severely handicapped, which in a sense was a new thrust of the legislation in 1973; the matter of mortgage insurance; State allocations formula; evaluations; experimental delivery systems; implementation of title I; and the employment of handicapped individuals.

We also talked about communications barriers, architectural barriers, and then we talked about the Office of Handicapped Individuals.

We have a limited amount of time and we have many witnesses and many issues. I hope that we can do what we tried to do in the first day, and that was to have the written testimony made a part of the printed record. Then we will ask that you talk from that printed or formal statement, discussing and highlighting the matters that are of concern to you.

The members of our first panel this morning are Dr. Jack Gruenenfelder and Dr. Jack Cockshott.

I presume the order in which you would wish to speak would be to have the National Association of Retarded Citizens go first, and that will be Mr. Gruenenfelder.

STATEMENT OF DR. JACK GRUENENFELDER, PH. D., ON BEHALF OF THE NATIONAL ASSOCIATION OF RETARDED CITIZENS; MEMBER, NARC GOVERNMENTAL AFFAIRS COMMITTEE; MEMBER, BOARD OF DIRECTORS, EXECUTIVE COMMITTEE; ACCOMPANIED BY PAUL MARCHAND, DIRECTOR, GOVERNMENTAL AFFAIRS; AND DR. JACK COCKSHOTT, PH. D., ON BEHALF OF NATIONAL ASSOCIATION OF COORDINATORS OF STATE PROGRAMS FOR THE MENTALLY RETARDED; ASSISTANT COMMISSIONER FOR MENTAL RETARDATION, INDIANA DEPARTMENT OF MENTAL RETARDATION; ACCOMPANIED BY ROBERT GETTINGS, EXECUTIVE DIRECTOR

Dr. GRUENENFELDER. Thank you, Mr. Chairman.

Senator RANDOLPH. You might tell us just briefly about your organization. I think it is good for the record to reflect who you are and who the people are, and some of your activities.

Dr. GRUENENFELDER. I am Jack Gruenenfelder. I am representing the National Association for Retarded Citizens, frequently known as NARC.

The National Association for Retarded Citizens has 1,800 local units and our membership constitutes over a quarter of a million.

With me is Paul Marchand, who is director of the Governmental Affairs office for NARC in Washington.

I come from Indiana where I teach at Indiana University Northwest, and I am the parent of six children, four of whom are mentally retarded.

We have filed our written testimony, but I would like to speak from my own personal experience, not only with my children, but also as a past president and board member of our local association.

One of the most decisive things that has happened to me in terms of my time is that about 6 or 7 years ago I became president of the Lake County Association for the Retarded. Lake County covers Gary, Hammond, and East Chicago in northwest Indiana, plus their suburbs.

In the last 6 years, our organization has built, with the help of Federal funds and State funds and 25 percent of our local funding, 4 new centers, each of which includes an area for workshops and an area for work activity.

We are extremely grateful for Federal funding for those workshops. They have gotten us out of some old Army barracks, which were inadequate.

We are also grateful to Voc Rehab in particular for an addition to one of those workshops, and some important and necessary equipment.

My own retarded children range from age 24 down to 17. They are all pretty much in the category of severely retarded; so they certainly constitute the severely handicapped, and even moreso, the severely retarded.

The oldest is 24, and at one point he was incorporated into a Voc Rehab program in the school system and nothing seemed to happen.

I signed the initial form. After that, I learned nothing further. Many months later, I called the Voc Rehab counselor to find out what was going on, what was happening, what the program consisted of.

I was appalled to find that the Voc Rehab counselor really could tell me nothing about the program. It was to my experience a rather shocking case of ineptitude and a kind of program that did not do anything. It was really meaningless.

This boy subsequently entered the workshop. At that time there was no tie-in or referral from Voc Rehab to the workshop.

My second retarded boy, who will be 21 in a month, was referred to the workshop from Voc Rehab and when he graduated from school at 18, we went to Voc Rehab and he was referred to a diagnosis, work evaluation and work adjustment program, which was connected with the Lake County Association for the Retarded. He was subsequently placed in work activities.

I was delighted to see that at this point, Voc Rehab had worked out a procedure for evaluation and was using our agency for work evaluation and work adjustment.

I recall that in his initial evaluation my son was headed for work activities. I recall protesting that, asking for further investigation, because my experience was that work activities was a pretty dull program and the workshop is far more interesting if only because he would move around a little bit.

But subsequent evaluation still placed him in work activities, a field, by the way, which he despises, and it is hard to get him there every day.

One of our experiences with these various introductions to the workshop or to work activities, is that a great improvement was made in programming for evaluation and adjustment. However, I think one of the things that we have felt in talking with the staff at the workshop is that the 13 weeks which Indiana uses for extended evaluation is far too short.

It is difficult to evaluate a severely handicapped person in 13 weeks and adjust for either a job or for placement in a workshop. Much needs to be assessed during this period. It takes not only technical skills but habits of work, discipline, a good deal of internal self organization, acceptance of routine, stamina, speed, maturation, which by and large a retarded person is not likely to acquire in normal processes that go on in the home or school system.

We have come to the conclusion at NARC that the 18 months which Federal legislation allows for evaluation and adjustment should be mandated, and possibly extended.

What is particularly difficult is that some of the State voc rehab programs do not use their 18 months. Indiana, for the most part, in practically every case, limits evaluations to about 13 weeks, which is very little time in order to adequately train someone who is severely handicapped for employment.

We have also discovered that training of the VR counselors is particular important. These are people whose experience has been largely outside of the field of retardation. They have been dealing with other kinds of handicapped people. Yet, in the case of sheltered workshops, a majority of the people now are retarded and as the VR program increasingly has to cope with retarded persons, retardation is an area in which the VR counselors simply need more training.

Now, I do not mean that there should be a college degree in retardation, but there should certainly be experience, real experience with retarded persons and meaningful education as to what kinds of life possibilities are open to retarded people.

It is important to realize that most retarded people are near normal. My own children are an exception, because they are severely retarded. But even one of my own children is in a workshop; and I think with additional maturation and the right kind of job, he might be able to have some kind of competitive employment of a very special nature.

Therefore, the training of the VR counselors seems to us to be of particular importance.

I should also like to emphasize the training of workshop and work activities staff. Workshop and work activities units have very precarious funding. The result is they tend to use nonprofessional staff and then from that group, as time goes on, pick out those that can be promoted.

In some respects, this works very well. The difficulty is that you are always dealing with people who need more training and you are always faced with a shortage of real professional people.

In my own family, we have found that a great deal of training can happen in the adult period. My oldest son has learned most of his speech after leaving the school system. My second son has very little speech. I do not know if you realize what it is to live daily without speech or with little speech.

We have found that in our own family, and certainly on the job, that any improvement in speech pays off with tremendous dividends.

This kind of professional training is very difficult to find in an ordinary workshop or work activities center. Special kinds of training are needed for retarded clients. It simply is not a question that at age 18 they enter the work force, and either go out to employment or land in a workshop or land in work activities and so on. There are tremendous possibilities remaining for training in what is called by some daily living. This training will pay off in terms of employment, and it will certainly pay off in terms of the proficiency and the ability of the retarded individual to live independently or simply to live in some kind of respectable and decent way in the community, possibly with his family.

The NARC believes there is special importance to continue training of the retarded for life and not merely for work.

We have therefore made a recommendation which in our written summary is recommendation D; namely, to establish a demonstration comprehensive rehabilitation program to serve those most severely handicapped individuals having little or no full employment potential. This could be done under a new section of the Rehabilitation Act or by amending existing sections, such as the special projects section.

We realize that you may be reluctant to jump into this with a full program, but we think the demonstration is of importance; we think the feasibility of this will be established.

We also find that there are not good training materials for the adult retarded. You cannot use children's materials for adult retarded people. They are geared to the emotional slant of children. Adult retarded people do not have those perspectives.

We find that when we look for training materials, audio-visual materials for example, we find material that is for adults or children but not for adult retarded persons.

A demonstration program which would develop materials would prove particularly feasible.

I might conclude with a point that I have discovered as I have become active in governmental affairs in the national level in trying to watch these programs work at the local level. That is coordination and correlation of various Federal programs.

Item E in our written testimony, states that in order to reduce disincentives to job placement resulting from potential loss of Medicaid, SSI, and other service program eligibility, we suggest this committee work cooperatively with the Senate Finance Committee to resolve these very real deterrents to full employment of the handicapped.

The background of that is developed on pages 8 and 9; the point is an old point but I think it has been particularly noticeable in programs that affect retarded persons, and that is that the retarded person cannot get various programs to work together to do him real benefit. He always has to give up one good one to get another one. He is always limping along with a kind of retarded program to assist his own retardation.

I might conclude in one sentence by saying that we have been emphasizing more counselors in voc rehab programs, training programs for workshop and work activities staff, more professional staff, and continued training of retarded clients, not only for work, but for daily living.

Thank you very much.

Senator **Randolph**. Thank you, Dr. Gruenenfelder.

You have had of course in your own family the personal problem, the personal challenge, the personal experience. This certainly helps you to understand the emphasis which must be placed on meeting the needs of all persons who are eligible for vocational rehabilitation services.

We appreciate Paul Marchand accompanying you to the hearing today. We have through the subcommittee addressed approximately 200 questions to the Secretary of Health, Education, and Welfare. Those responses are to be received according to our request by February 25.

Now, you have stressed certain points today that were in the questions asked of HEW. As we review your testimony and the responses from Dr. Mathews and his staff, I think we will perhaps have reason to come back to an organization such as yours, not in hearing, but in an exchange designed to improve the services to individuals such as your children.

I have no reason to ask you questions today. Your testimony is based upon experience and based upon your thinking of the solution to these problems.

We shall not fail to take in careful consideration what you have said to us today.

Dr. **Gruenenfelder**. Thank you.

[The prepared statement of Dr. Gruenenfelder follows:]

TESTIMONY
ON
THE REHABILITATION ACT

Respectfully Submitted to:
THE SUBCOMMITTEE ON THE HANDICAPPED
OF THE
LABOR AND PUBLIC WELFARE COMMITTEE
U.S. SENATE

Presented by:
THE NATIONAL ASSOCIATION FOR RETARDED CITIZENS

Witness:
Jack Gruenenfeluer, Ph.D.
Monday, February 23, 1976

NATIONAL ASSOCIATION FOR RETARDED CITIZENS

SUMMARY OF RECOMMENDATIONS

A. In order to eliminate barriers faced by severely handicapped persons during initial contact with the rehabilitation counselor and initial diagnosis:

1. Mandate a thorough diagnostic study of each applicant which will include more than a psychological and physical examination. This study should include a minimum time period (at least one month) in a work evaluation setting supervised by trained work counselors.

2. Mandate training for those rehabilitation counselors who deal with the severely handicapped.

B. In order to make the extended evaluation process a more effective tool in serving severely handicapped persons:

1. Lengthen the time limitation of 18 months on extended evaluation to at least 30 months for those severely handicapped who, at the end of the 18-month period, exhibit progress toward achieving those skills necessary for gainful employment.

2. Require specialized training for evaluation staff.

C. In order to reduce disincentives implicit in the case closure system to serve the most severely disabled:

Revise the case closure system to "weigh" those cases involving the severely handicapped and to give separate status to those clients placed in extended sheltered employment.

D. In order to establish some mechanism for federal support for comprehensive rehabilitation programs for the severely handicapped:

1. Establish a demonstration comprehensive rehabilitation program to serve those most severely handicapped individuals having little or no full employment potential. This could be done under a new section of the Rehabilitation Act or by amending existing sections, such as the Special Project section.

2. The costs of the rehabilitative elements of extended sheltered employment should be financed by the Rehabilitation program.

E. In order to reduce disincentives to job placement resulting from potential loss of Medicaid, SSI, and other service program eligibility:

We suggest this Committee work cooperatively with the Senate Finance Committee to resolve these very real deterrents to full employment of the handicapped.

F. In order to resolve the considerable confusion regarding the use of funds authorized under Section 304(b) of the Rehabilitation Act of 1973:

1. The Client Assistance Program and Handicapped Migrant Workers program should be funded through their own authorizations in the Rehabilitation Act, thereby freeing the Developmental Disabilities funds to provide services for the purposes designated by the DD Act.

2. Special Project funds in the Rehabilitation Act should continue to finance rehabilitation projects for the developmentally disabled.

3. We recommend the inclusion of the developmentally disabled in the language of Section 304(b)(1) and that at least 1/3 of any increased funds over the FY 1976 level in this Section be set aside for the developmentally disabled.

G. In order to facilitate the training of rehabilitation personnel to more adequately meet the needs of the most severely handicapped:

We strongly urge this Committee to expand the authorization levels for research and training and to earmark those increases to provide research and training in areas which will directly affect severely handicapped persons.

H. In order to make the urgently needed protections of Section 504 of the Rehabilitation Act more nearly a reality:

The National Association for Retarded Citizens urges this Committee to act positively to bring about the implementation of Section 504 of the Rehabilitation Act of 1973.

Mr. Chairman,

My name is Dr. Jack Gruenenfelder. I am an Associate Professor of Philosophy at Indiana University. I am here in my capacity as a member of the Governmental Affairs Committee of the National Association for Retarded Citizens. I also serve on the Board of Directors of this organization. I am the father of six children, four of whom are mentally retarded. Two of my sons are currently involved in the Vocational Rehabilitation process, one is employed in a sheltered workshop and the other attends a work activity center.

I am accompanied by Paul Marchand, who is the Director of the Governmental Affairs Office of the National Association for Retarded Citizens.

I am very pleased to have this opportunity to present testimony before you and your Subcommittee on behalf of the National Association for Retarded Citizens. Our Association of more than 1800 local units has represented the interests of our nations's six million retarded citizens for more than twenty-five years. Some of our local units pioneered the development of sheltered work opportunities for mentally retarded persons, and many now operate sheltered workshops and work activity centers. At the national level, our On-the-Job Training Project (OJT), financed by the Labor Department and other funds, has successfully placed almost 14,000 mentally retarded citizens in gainful employment since 1967. This rapidly expanding program is currently placing

4,000 retarded persons per year in industry in forty-eight States.

When our organization testified before this Committee in 1973, we strongly supported priority services to the severely handicapped. It was our contention then, and still is now, that there are many severely handicapped citizens capable of gainful employment. The passage of the Rehabilitation Act of 1973 and the Amendments of 1974 provided the States the authority to serve these individuals. These legislative mandates have not, in our opinion, changed the rehabilitation programs to any great degree. There are still large numbers of mentally retarded persons who are denied rehabilitation services.

In this testimony, I will point out some of the major problems facing severely handicapped persons as they attempt to enter and go through the rehabilitative process. The first and usually most crucial step in this process is the rehabilitation counselor. It is our opinion that most rehabilitation counselors are completely untrained to deal with mentally retarded persons who would be considered severely handicapped. Too many times, handicapped individuals have been denied rehabilitative services by these counselors without the client having undergone an adequate diagnosis of his disability and his potential for employment. The average rehabilitation counselor simply does not have the training at the present time to make an accurate prognosis as to the vocational potential of the severely handicapped person. Too many rehabilitation counselors simply assume that a severely handicapped person, by definition, cannot hope to achieve employment. Even if the severely handicapped person is able to surmount the initial obstacles presented by the untrained counselor and is accepted for rehabilitation, he is likely to encounter continuing problems during the course of his rehabilitation as a result of personnel untrained in dealing with severely handicapped individuals. A particular problem is the underestimation of eventual vocational possibilities for the rehabilitant, leading to inappropriate or at best uncreative vocational goals which are unnecessarily boring and unrewarding. In short, we expect adequate training of rehabilitation counselors will prevent underestimates of the employment potential of severely handicapped persons.

The National Association for Retarded Citizens recommends the Congress:

1. Mandate a thorough diagnostic study of each applicant which will include more than a psychological and physical examination. This study should include a minimum time period (at least one month) in a work evaluation setting supervised by trained work counselors.
2. Mandate training by those rehabilitation counselors who deal with the severely handicapped. The rehabilitation program has available to it, through the Rehabilitation Research and Training Centers, State training programs and other facilities and programs, many resources for training specialists in severe mental retardation and other handicapping conditions. We have little evidence that these are being effectively

> utilized at the present time to train rehabilitation counselors to work with the severely handicapped. We do not mean to imply that all counselors be totally retrained, but urge that any counselors working with the severely handicapped at least have short term training geared to acquaint them with the specific needs of the severely handicapped. These counselors are the heart of the Rehabilitation Program and they must be given the tools to carry out their responsibilities.

Once a severely handicapped person clears the preliminary and thorough diagnostic study process, he most probably enters a program of extended evaluation. Extended evaluations are currently limited to 18 months. However, most State Vocational Rehabilitation agencies do not utilize the full 18 months of extended evaluation. Each State apparently sets its own criteria for the length of extended evaluations. In most States, our units report that the Vocational Rehabilitation agencies will cut off extended evaluation at 2 months, 5 months, 9 months or at almost any interval. This practice surely hinders the rehabilitation potential of the severely handicapped. We suggest the Congress lengthen the time limitation of 18 months on extended evaluation to at least 30 months for those severely handicapped who, at the end of the 18 month period, exhibit progress toward achieving those skills necessary for gainful employment.

Again, specialized training for evaluation staff should be required. There are many existing Rehabilitation-funded programs to provide such training to those persons who are directly involved with clients during the extended evaluation phase.

There is no doubt that rehabilitating severely handicapped individuals is more costly and requires more time than mildly handicapped individuals. Although persons in the rehabilitation field recognize these facts, the entire system of case closures clearly works against the severely handicapped. Rehabilitation counselors who concentrate on working with the severely handicapped must spend more and longer periods of time with these clients. A greater percentage of the severely handicapped will likely fail or have greater difficulties than those less handicapped. The rehabilitation agency, meanwhile, still expects these counselors to meet quotas and "close" a certain number of cases per year. This must place additional pressure on the counselors. This system creates a disincentive to working with the severely handicapped. We recommend the case closure system be revised to "weigh" those cases involving the severely handicapped and to give separate status to those clients placed in extended sheltered employment.

Sheltered employment has been documented as a valuable programmatic resource for mentally retarded persons, especially those with severe handicapping conditions. The Greenleigh Sheltered Workshop Study reports that of the 1,700 facilities for which information could be obtained, 303 were sheltered workshops for the mentally retarded and mentally ill and 841 were work activity centers, which serve a high proportion of retarded clients. Other general workshops also serve retarded persons. This indicates that much more than half of all the reported facilities primarily serve retarded persons. The study also shows that mental retardation is the primary disability for 53% of the clients in workshops. Clearly, workshops are of great interest to our organization.

The Comprehensive Needs Study concurred with the findings of the Sheltered Workshop Study. It goes further to state "the severely handicapped retarded are still a minority of those retarded treated, despite some evidence that the retarded as a group are more vocationally capable than is reflected in the current Vocational Rehabilitation program." This is inexcusable. We know of no justification for this. We can only conjecture that the State Rehabilitation agencies have not lived up to their responsibilities.

There are a great many issues surrounding workshops. Some of these include:

- Low client wages
- Poor or untrained staff
- Tedious and boring work for clients
- Too little mobility to competitive employment
- Lack of rehabilitative programming
- Lack of adequate business management
- No vocational rehabilitation financing of work activity centers and long term sheltered employment.

These are real problems which directly impact on the thousands of mentally retarded clients currently participating in these workshops. The greatest problem facing workshop facilities serving mentally retarded clients appears to be financing. The Vocational Rehabilitation program does not finance long term sheltered employment, work activities or other rehabilitation programs geared to make severely handicapped individuals (including those persons without obvious full employment potential) more productive citizens. This lack of Federal financial participation has forced these facilities to exist to a large extent as charitable operations. This has led to poorly trained, underpaid staff, inadequate programming, low client wages and too few placements in industry.

Many argue that funding from the Rehabilitation Act for these programs would dilute to rehabilitation and full employment focus of the current State Grant program. We do not deny that this may be a possibility. We also recognize the Federal Government's fiscal condition may not allow for the initiation of a large, new program at this time. However, we suggest that Congress consider several alternatives through which these programs could be financed by the Rehabilitation Act. These are:

1. Establish a demonstration comprehensive rehabilitation program to serve these most severely handicapped individuals having little or no full employment potential. This could be done under a new section of the Rehabilitation Act or by amending existing sections.

such as the Special Project section. Both the Sheltered Workshop Study and the Comprehensive Needs Study address this pressing need and the National Association for Retarded Citizens strongly urges this Committee to establish some mechanism for Federal support for comprehensive rehabilitation programs for the severely handicapped.

2. The costs of the rehabilitative elements of extended sheltered employment should be financed by the Rehabilitation program. This would enable workshops to raise client wages since a smaller percentage of the workshop income would be needed to support staff and other workshop expenses. The average wage paid to mentally retarded clients in sheltered workshops is 99 cents per hour and goes as low as 36 cents per hour in work activity centers. Given these wages, it is easy to see why only 5% of the total workshop clientele support themselves on their own earnings. Fifty percent must depend on their families for support while 45% necessitate income from other public sources.

Many dependent mentally retarded sheltered workers receive cash assistance from the SSI program. Their diverse needs require some degree of supervision outside the rehabilitation facility, and there are other Federal/State programs that can be of assistance. For instance, SSI recipients are also eligible for Social Services benefits and generally for Medicaid. These supplementary services tend to increase in importance as the severity of a person's handicap increases.

When a client becomes ready for full employment, a crucial decision must be made. Either take the job, thereby losing eligibility for SSI and the supplementary services or not take the job, thereby wasting the rehabilitation effort or at least being less productive than possible, but maintaining those services essential to remain in the community. The National Association for Retarded Citizens is aware that this Committee does not have jurisdiction over these other programs, most of which are contained in the Social Security Act. However, these problems clearly affect the effectiveness of the Rehabilitation Act. We suggest this Committee work cooperatively with the Senate Finance Committee to resolve these very real deterrents to full employment of the handicapped.

Our organization wishes to call to your attention the need for revising the Special Projects section (304(b)) of the Rehabilitation Act of 1973 due to the recent enactment of the Developmentally Disabled Assistance and Bill of Rights Act. As you are aware, the Developmental Disabilities Act now has its own Special Project authority and funds ($12.5 million) to finance these projects are being transferred from section 304(b) of the Rehabilitation Act to the Developmental Disabilities Act. This has created considerable confusion due to the set-asides for Client Assistance Projects and Handicapped Migrant Workers which have been funded out of this $12.5 million appropriation for the developmentally disabled in the past. The National Association for Retarded Citizens sees two specific issues:

1. The Client Assistance Projects and Handicapped Migrant Workers

should be funded through their own authorizations in the Rehabilitation Act, therefy freeing the developmental disabilities funds to provide services for the purposes designated by the Developmental Disabilities Act.

2. Special Project funds in the Rehabilitation Act should continue to finance Rehabilitation Projects for the developmentally disabled. Throughout the history of the Rehabilitation Act of 1973, the 1974 Amendments and the Developmental Disabilities Act, this Committee has clearly intended the Rehabilitation Act to continue to serve the developmentally disabled. To accomplish this goal, we recommend the inclusion of the developmentally disabled in the language of Section 304(b)(1) and that at least one-third of any increased funds over the fiscal year 1976 level in this section be set aside for the developmentally disabled.

Throughout this testimony, our organization has articulated the very important need to make available continuing training programs for rehabilitation workers, particularly rehabilitation counselors and workshop staff who work with the severely handicapped. For many of the professionals working in the field, the needs of the severely handicapped are basically unknown or misunderstood. If the Congress is serious about giving priority services to the severely handicapped, and the National Association for Retarded Citizens certainly believes it is, then it must continue and expand current efforts in research and training to allow rehabilitation professionals to better serve these individuals. We strongly urge this Committee to expand the authorization levels for research and training and to earmark those increases to provide research and training in areas which will directly affect the severely handicapped. It is our opinion that this will meet a dire need and pay huge dividends.

Many organizations representing the handicapped will be testifying before this Committee to urge some Congressional action to spur the Department of Health, Education and Welfare to publish regulations implementing Section 504 of the Rehabilitation Act of 1973. This Committee is well aware that the provisions of this section, if implemented, holds great promise for ending discrimination of handicapped citizens. It is incredible to think that HEW has not published regulations for more than two years. This certainly cannot be allowed to continue. The National Association for Retarded Citizens urges this Committee to act positively to bring about the implementation of Section 504 of the Rehabilitation Act of 1973.

We thank the Subcommittee for the opportunity to present our observations as to the implementation of the Rehabilitation Act and to make some specific recommendations. Your deep concern for the well-being of our nation's handicapped citizens is greatly appreciated. You are to be congratulated for your past efforts. We sincerely hope you will give serious consideration to the recommendations contained in this statement.

Senator **Randolph**. Dr. Jack Cockshott.

Dr. **Cockshott**. Senator Randolph, I am very pleased to be here today, pleased to have the opportunity to appear before your committee.

I am Jack Cockshott, assistant commissioner for mental retardation, Indiana Department of Mental Health, representing the National Association of Coordinators of State Programs for the Mentally Retarded.

Robert Gettings, executive director of our organization from the Washington office, is accompanying me.

Our organization is an organization that serves the people throughout the States who have the responsibility of running and coordinating programs serving the mentally retarded and, most typically, the most severely handicapped within the mentally retarded and developmentally disabled categories.

Consequently, our main concern or main interest here today is to look at and express concern about the way the program has been responsive to the needs of the most severely handicapped.

We also want to look at the way the program has utilized sheltered workshops as a means of training handicapped people and also the use of special project funds to demonstrate new techniques.

That the vocational rehabilitation program has been a beneficial and good program there is no doubt. In 1973, those of us who were concerned about the severely handicapped were extremely pleased to see the emphasis of your committee in directing the State programs to focus more of their attention, more of their priorities, on the severely handicapped.

We thought this was an excellent move because we felt that this area of handicapped people was being underserved. We were very, very pleased to see that.

However, last year in a survey of the trends in services throughout the States by our association, we looked particularly at how this direction from Congress to State vocational rehabilitation agencies had effected change in the emphasis throughout the States.

What we found was quite revealing, certainly not too surprising to us who were out in the field. Only 15 of 48 respondents indicated that there had been any noticeable change in developing additional programs. Six others indicated that there had been a strong cooperative relationship throughout the years with vocational rehabilitation and that these same kinds of relationships continued without significant change.

Senator **Randolph**. In those reports you received—I am sure they are correct—you spoke of the preponderance of those who had seen no improvements or had no programs.

Now, does that mean that there were no efforts being made to serve severely handicapped persons?

Dr. **Cockshott**. No; in most of these cases there had been efforts to encourage and to work with vocational rehabilitation directors and to institute programs and, all too typically, we find that they indeed are faced with problems.

We are not trying to climb on their backs; because as we have indicated in our report, I think there are some significant reasons that have deterred them from fully implementing these programs.

Twenty-seven State coordinators said there had been no change. And some said they never received any real assistance from rehabilitation programs. This has to be considered on a State-by-State program. There is no blanket condemnation of all State programs. Many have had good programs continuously. Still, 22 out of 40 said that severely mentally retarded individuals were not being given a fair shake in life.

In commenting on the responses of State mental retardation officials—and I would like to read this—the survey report concludes that:

> The Association's staff was struck by the apparent wide differential in the range and scope of rehabilitation services delivered to the mentally retarded from state to state. It seemed clear that the responsiveness of rehabilitation agencies to the needs of the mentally retarded—particularly those with severe handicaps—was more a function of the historical attitudes of rehabilitation leaders in the state than any response to changes in Federal law.

This impression is supported by the findings of the Urban Institute's study on the needs of severely handicapped persons.

After analyzing statistical data on the acceptance and closure rates for mentally retarded clients prepared by the Rehabilitation Services Administration, the authors of the report pointed out that the rates for acceptance of retarded clients in fiscal year 1972 varied from a high of 20.7 percent in Missouri to a low of 3.6 percent in West Virginia, or almost a sixfold difference.

Variations among the States in the placement of severely retarded clients was even more striking. Reports from state rehabilitation agencies indicated that the total completed caseloads classified as moderately to severely retarded ranged from 0.5 percent in Kentucky to 5.8 percent in Indiana.

In fairness to State rehabilitation agencies, it must be said that, at the time of the survey, agency officials had had precious little time to respond to the new Federal initiative, since the revised regulations were not issued in proposed form by HEW until June 1974.

In addition, Congress has placed vocational rehabilitation agencies in the difficult—some would say impossible—position of trying to improve services to the severely handicapped while maintaining services to existing clients—all of this without any substantial increases in Federal appropriations and during a period of serious inflation.

We are unaware, however, of any major new developments since the preparation of the association's survey report last year and are forced to conclude, as we did at the time, that "the record of achievement on behalf of most severely retarded persons is still rather spotty."

The congressional mandate to serve the severely handicapped has had little or no impact on the expansion of rehabilitation services to the severely mentally retarded.

If our conclusion is correct, the logical question is: What can Congress do to see that the original statutory intent is carried out? In addition, one might ask: Must the statutory role of the vocational rehabilitation agency be expanded in order to meet the full range of service needs of severely handicapped persons?

In other words, should the Rehabilitation Act include authority to support non-vocational services to persons whose handicaps are so severe that their prospects for self-support are extremely limited? Although we recognize that the answers to these questions are closely intertwined, we will address them separately since they pose different legislative and administrative problems.

THE ROLE OF REHABILITATION AGENCIES

If one assumes that the fiscal constraints which have faced the rehabilitation program—as well as many other HEW programs—over the past few years are likely to continue in the foreseeable future, then it seems inevitable that some hard choices will have to be made about how to deploy the Federal funds which are made available.

In Public Law 93-112, Congress made it abundantly clear that states should give top priority to serving "those individuals with the most severe handicaps."

However, State rehabilitation agencies also were told not to discontinue service to non-severely handicapped clients.

With insufficient case service moneys to serve all clients, agency officials were caught in a bind; i.e., how could the severely handicapped mandate be fulfilled without dropping other clients from the caseload? Compounding this problem was the agencies' legal vulnerability to suit if they denied services to any handicapped applicant—whether or not he was severely handicapped.

Given the difficulty of defining the severity of an individual's handicap in objective terms and the pressure for increased closures among the severely impaired, it was inevitable that there would be wholesale reclassification of clients.

While this charge is difficult to document, the sharp increase in the percentage of severely handicapped clients served in some states over the past two years does not seem to be reflected in an expansion of services to previously excluded groups. Instead, clients who formerly would not have been labeled "severely handicapped" are being so designated in order to meet national target goals.

We strongly recommend that this subcommittee give serious consideration and attention to redefining the role of the vocational rehabilitation program in the total spectrum of Federal manpower development and training efforts.

If the subcommittee expects rehabilitation agencies to concentrate a greater percentage of their resources on severely handicapped clients during the current period of fiscal stringency, then an attempt should be made to delineate the types of clients who will not be served under the Federal-State program.

For example, thousands of handicapped adolescents in public schools across the country require reality-based vocational preparation in the later years of their schooling if they are to make a successful adjustment to the job market.

On the whole, public schools have done a poor job of furnishing handicapped adolescents with marketable skills. In many parts of the country, vocational rehabilitation agencies, beginning in the early 1960's moved to fill this gap by supporting work-school programs and out-stationing rehabilitation counselors in the schools.

Indeed, a significant portion of expenditures to rehabilitate the mentally retarded—particularly mildly handicapped or "educable" youngsters—has been directed toward such cooperative work-school programs in recent years.

Through the leadership of this subcommittee, Congress last year enacted sweeping new legislation to support the education of handicapped children—Public Law 94-142.

One of the least discussed implications of Public Law 94–142 is that local public schools will be expected to play a more aggressive role in preparing handicapped youth for remunerative employment.

The implication of this decision on the future role of State rehabilitation agencies should be carefully examined. As recent independent reviews of the Federal-State vocational education program—by GAO and other groups—tend to indicate, many public schools will be reluctant to expand vocational preparation services to handicapped children and youth. Thus, the rapid withdrawal of rehabilitation agencies from work-school programs may have some very undesirable side effects.

In any event, the future role of rehabilitation agencies in serving school-aged clients and interfacing with school systems deserves this subcommittee's attention.

Similar questions could be raised concerning the rehabilitation agency's role vis-a-vis mentally ill clients served by community mental health centers, drug addicts, alcoholics, and persons suffering from spinal cord injuries.

The common feature in each situation is that the expertise and resources of the rehabilitation agency must be interdigitated with those of other health or social service systems which have their own responsibilities for providing comprehensive services to their clientele. The parameters of the rehabilitation agencies' involvement in each on instance should be addressed by the subcommittee.

IMPROVING INTERAGENCY ACTION

One of the distinguishing characteristics of severely handicapped individuals is that they usually require a variety of training and support services over a prolonged period of time. In the past, the rehabilitation program was ideally suited to addressing the complex service needs of such individuals because: (1) There were few restrictions on the types of medical, psychological, training, and support services which the rehabilitation counselor could purchase in order to assist this client in attaining a rehabilitation objective; and (2) the demand for services generally was well balanced with the supply of available fiscal resources.

In recent years, however, several developments have converged to complicate the situation. First, the resources and legal mandates of other State and community agencies to serve handicapped Americans have been vastly expanded.

Thus, as mentioned above, we now recognize that the public schools have a responsibility for vocational and career training of severely handicapped youngsters; community mental health centers are charged with delivering and coordinating comprehensive services to seriously disturbed adolescents and adults; retardation centers provide and purchase a wide variety of habilitative services on behalf of mentally retarded and other developmentally disabled persons while drug and alcohol treatment centers play a similar role for alcoholics and drug addicts.

In addition to the proliferation of service systems, we have witnessed a sharp expansion in the individual entitlements of severely handicapped persons over the past decade.

An increasing proportion of surgical costs and medical rehabilitation expenses are covered under either private health insurance plans or Medicare or Medicaid. As we move toward some form of national health insurance plan—or, at least catastrophic coverage—this trend seems almost certain to continue.

Expanded social security benefits and the enactment of the supplementary security income program also have provided many severely handicapped persons with the necessary resources to cover their basic living needs.

As income maintenance and other service resources have expanded, rehabilitation agencies have been faced with a sharp rise in client expectations and dwindling budgetary increases.

This combination has made it more difficult to arrange cooperative agreements with other agencies at a time when more and more severely handicapped clients are served by at least one other human service agency.

We conclude, therefore, that one of the most important steps Congress could take to expand vocational rehabilitation services to the severely handicapped is to stimulate improved cooperation between Federal and State agencies interested in the welfare of this population.

Traditionally, the onus of seeking cooperative relations has rested with the State rehabilitation agency. This approach worked rather well as long as the rehabilitation agency had sufficient funds to purchase services from other State and local agencies.

Now that the necessary resources to provide truly comprehensive services are shared among two or more agencies, negotiating cooperative agreements around any unilateral client objectives becomes more difficult—especially since each of the agencies involved has its own goals and priorities for the clients and, in all probability, faces severe resource constraints.

One approach which the subcommittee might explore is to mandate interaction between responsible Federal agencies around a series of client oriented objectives. Thus, for example, the Rehabilitation Services Administration might be required, by statute, to cooperate with the Development Disabilities Office to demonstrate the feasibility of vocationally rehabilitating severely handicapped, developmentally disabled adults.

The two agencies, working cooperatively with their counterpart agencies at the state level, could develop specific goals and objectives, methodologies and procedures and criteria for success.

Similar arrangements might be worked out between RSA and NIMH, the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse et cetera.

In order to assure that some funds are available to launch such a venture, the subcommittee might consider earmarking a portion of innovation and expansion grant funds for this purpose. This amount could either be taken from the 50 percent of I&E funds earmarked for secretarial priorities or equal parts could be reserved from the States' and the secretary's share of I&E funds.

We suggest this new approach to stimulating interagency action on behalf of the severely handicapped because we are convinced that cooperation is exceedingly difficult to achieve at the State and local levels when there is no demonstrable evidence that the responsible

Federal agencies want to work together. Indeed, the barriers to cooperation are frequently insurmountable when a national spirit of cooperation does not exist.

EXPANDED USE OF EXTENDED EVALUATION AUTHORITY

Since the enactment of the 1965 amendments to the Vocational Rehabilitation Act, Public Law 89–333, the Federal law permitted State rehabilitation agencies to furnish evaluation services to mentally retarded clients for up to 18 months.

This so-called extended evaluation provision was later expanded to other disability groups. However, while a few States have used the extended evaluation authority as an effective tool in expanding services to severely handicapped individuals, on the whole, this section of the law has been badly underutilized.

The subcommittee should explore means of encouraging States to make more frequent use of extended evaluations in dealing with clients who otherwise would be considered infeasible candidates for rehabilitation services.

Requiring the Rehabilitation Service Administration to report the State-by-State ratio of the number of case closures due to severity of handicap to the number of extended evaluations would be one step in this direction.

IMPROVED REPORTING SYSTEM

Whether or not the States are making any progress in implementing the Congressional mandate to serve severely handicapped clients is difficult to assess.

RSA's current reporting requirements do not require the States to submit data and reports which lend themselves to nationwide comparisons.

For example, RSA's most recent program regulation guide, notes that:

> No two states have exactly the same management structure. This results in variations in service delivery. Some States have introduced organizational features which make programs accessible and proficient for serving severely handicapped people. Other states providing the same basic vocational rehabilitation services, serve fewer severely handicapped people. They have arranged their service delivery system (offices, facilities, staff assignments) and have trained their staff so as to serve a wider spectrum of disabilities many of which are not severely handicapped.

The guidelines go on to note that States will differ as to the style of their annual submittals on expanding and improving services to the severely handicapped.

In order to evaluate the States' progress toward fulfilling the Congressional mandate, we recommend that: One, Congress press RSA on the status of efforts to implement a weighted closure system; such a system, which has been under discussion within the Agency for at least 5 years, would act as an inducement to serving more severely handicapped clients by giving relatively more credit for closing difficult cases; and two, State rehabilitation agencies be encouraged to institute management information systems based on individual rehabilitation plans; such systems are being developed by several State mental retardation-developmental disabilities agencies and are proving to be a useful management tool.

NONVOCATIONAL SERVICES TO THE SEVERELY HANDICAPPED

In late 1972 and again in early 1973, Congress enacted legislation which would have authorized a new independent living program to assist severely handicapped individuals. Unlike the basic rehabilitation program, the primary goal of the program was not to place disabled individuals in gainful employment but to help them make a more successful adjustment to community life through the provision of a wide range of supportive services.

Both times the legislation was passed by Congress, it was vetoed by President Nixon; when attempts to override the veto failed, a compromise measure was enacted which deleted the independent living authority and substituted a provision for an indepth study of the needs of severely handicapped individuals.

When this subcommittee held hearings on amendments to the Vocational Rehabilitiation Act in 1972, a witness representing our association made the following statement:

> As the representative of state agencies which are responsible for providing services to over 200,000 institutionalized retarded individuals and many thousands more severely disabled children and adults in community settings, we are concerned about the lack of training and long-term sheltered employment opportunities for severely handicapped adults.
>
> Often such services can spell the difference between a life of total dependency in an institutional setting and a semi-independent, normalized living situation in the community.
>
> In fact, there are literally thousands of moderately to severely retarded adolescents and adults currently residing in state institutions who could live a happier, more rewarding life if adequate, work-oriented programs and supervisory living arrangements were available in the community . . .
>
> Despite recent improvements in the Act—such as provisions for extended evaluation of work potentials—the single objective of the Federal-state rehabilitation program remains to help handicapped persons achieve economic independence.
>
> No one could argue with this noble aim. In fact, over the past decade, some 200,000 retarded adults—primarily mildly afflicted individuals—have been placed in jobs through the efforts of state rehabilitation agencies.
>
> Nonetheless, we are concerned that many seriously disabled individuals with work potential are not being served by the rehabilitation program because of the overriding emphasis on serving clients who are 'feasible' candidates for placement in competitive industry.
>
> In many instances, complete economic independence may not be a realistic goal for the seriously afflicted individual. They may require long-term or even lifetime placement in a sheltered workshop, work activity center or some other type of semi-protected work environment.
>
> Nonetheless, we would argue that every individual—regardless of the severity of his handicap—has a right to hold a job which is commensurate with his abilities.
>
> In addition, many studies have demonstrated the sharp improvements in social adaptation of handicapped persons which occur once they are employed.
>
> Offering severely handicapped individuals an opportunity to work not only confers an imprimatur of dignity in our work-oriented society but also saves the American taxpayers money since it is considerably more expensive to maintain such individuals in a state or private residential institution.

Although nearly 4 years have passed since we initially outlined our views on the subject, the association continues to feel that there is an important role which rehabilitation agencies should play in serving severely handicapped workers who are incapable of total self support.

However, we seriously doubt that title II of the bills vetoed by the President in 1972 and 1973 would address the problems of severely impaired, developmentally disabled clients.

The purpose of these measures was to provide nonvocational support services which would make it impossible for severely handicapped persons to live independently. A very small percentage of the population we are concerned with would be able to live independently because of the severity of their intellectual handicaps.

In addition, after studying results of the Urban Institute's study, we are convinced that the term "severe disability" as it is used by most rehabilitation agencies is far removed from the concept applied by agencies responsible for working with the mentally handicapped.

For example, when the project staff interviewed a random sample of 889 clients rejected by vocational rehabilitation agencies as too severely handicapped, they found that only 11 percent were severely or totally dependent. The remainder were found to be completely independent in self-care and mobility, 45 percent; slightly dependent, 14 percent; or moderately dependent, 30 percent, according to the Barthel Index.

For the above reasons, we recommend that the subcommittee focus any new authority to meet the needs of severely handicapped clients who are incapable of achieving complete self support on the work-related aspects of the individual's overall habilitation program.

Other community agencies are generally better equipped to meet the clients' needs for housing, transportation, counseling, medical care, and similar ancillary services.

The expertise of rehabilitation agencies would be most useful in developing marketable skills among severely impaired clients—even though the clients may never be economically or socially self-sufficient.

By adopting this approach, the subcommittee would avoid unnecessary overlap with the responsibilities of other health and social service agencies and assure the traditional skills of the rehabilitation specialists are properly utilized.

Since much of the training would take place in long-term sheltered employment settings, for example, sheltered workshops, et cetera, it is interesting to note that roughly 20 State rehabilitation agencies have State funded programs to support severely disabled clients in long-term sheltered employment.

In other States, similar grant programs are operated by State mental health and mental retardation agencies. We would strongly recommend that any nonvocational authority attempt to build upon the experience of the States rather than attempting to be all things to all severely handicapped persons. In this way, limited Federal funds could be used most effectively to achieve targeted objectives.

THE ROLE OF SHELTERED WORKSHOPS IN THE REHABILITATION OF THE SEVERELY HANDICAPPED

The Greenleigh Associates' report on sheltered workshops documents the fact that slightly over half of the 410,000 clients served in such facilities annually have a primary disability of mental retardation.

An even higher percentage of clients in facilities classified as work activities centers—the fastest growing area of the workshop movement—are mentally retarded.

The Greenleigh study also shows that workshop clients receive extremely low wages, with clients in specialized workshops and work activities centers for the mentally ill and mentally retarded at the bottom of the list both in terms of hourly wage and gross annual earnings.

The authors demonstrate how the lack of capital resources, equipment, and business acumen hamstring the operation of most small workshops and contribute to the low wage rates.

These findings tend to reinforce what professionals in the field have long realized. As the study suggests, we need to take a hard look at the variety of roles we are asking sheltered workshops to perform and ask ourselves whether some of these functions cannot be handled more effectively and efficiently by other social service agencies.

For our part, we are convinced that there is a long-term need for sheltered employment opportunities for severely impaired, developmentally disabled persons and that vast improvements are possible in workshop productivity if we can break with our preconceived stereotypes about the workshop and its clients.

For example, research on the vocational training of the mentally retarded indicates that we may be grossly underestimating the capacity of severely disabled persons to perform successfully in work situations.

A team of investigators from the children's research center at the University of Illinois recently demonstrated that 64 moderately to severely retarded individuals could be taught to perform complex industrial assembly tasks in an amazingly short period of time through the use of intensive, carefully planned training techniques.

Principal investigator Dr. Marc W. Gold concludes that—

> the field of the habilitation of the mentally retarded * * * today in the United States * * * exists within a context where the population with whom it deals is perceived by almost everyone as being far less capable than is really the case.

The clear implication of this research is that the low expectancy levels of parents and professionals alike and the failure of rehabilitation agencies to adopt modern industrial training techniques are among the major factors limiting the placement of severely retarded clients in highly productive jobs.

I think these are some of the areas we want to look at: what kind of procedures, how are we looking at these people: I emphasize that the people we are looking at, the most severely retarded, as Dr. Gruenenfelder indicated, can learn, but they learn in a very different way and at a very different rate than the typical person in vocational rehabilitation programs.

I think that we have to make sure that the appropriate program is geared to the appropriate person, to try to fit them all in.

Senator RANDOLPH. That is so true, Doctor. We must do individual programing in all fields. If we are resourceful, if we are creative, if we try new methodology, many times we can succeed. Sometimes we fail, but we try, and I like the thrust of what you are saying.

Dr. COCKSHOTT. The report is I think well covered, and as long as that is going into the record, I think it will speak for itself. But those are some of the major points that we wanted to address ourselves to, the fact that we are talking about a different area of people that have different needs, different definitions even, different criteria as to how you describe them.

But certainly under the, may I say, new look at mental retardation, it is not all that new, but has been developing over the past 10 or 15 years, that we are indeed seeing these people also 10 to 20 or 25 years ago, and who are as I said, once a person is marked as mentally retarded, no ability, no place in life except an institution, now we find that to be wrong. They can learn and be very productive for society if we give them a chance.

Senator RANDOLPH. Well, of course, you know it was said that the blind had no ability, and the blind proved that it was not true. It can be proved very often by people who have so-called handicaps that because they are able to bring a certain zeal and expertise to their work, more than someone who has all his faculties but does not apply them.

Mr. Marchand and Mr. Gettings, you have supplied us with your newsletters, and I take this opportunity to say that they are very helpful. I wanted you to know that I appreciate, as the staff does, the work that you are doing here on the Washington front.

Dr. COCKSHOTT. We appreciate your interest.

Senator RANDOLPH. Thank you very much.

[The prepared statement of Dr. Cockshott follows:]

STATEMENT OF TESTIMONY
AT
OVERSIGHT HEARINGS ON REHABILITATION PROGRAMS

Respectfully Submitted

to the

SUBCOMMITTEE ON HANDICAPPED
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE
The Honorable Jennings Randolph, Chairman

John B. Cocksnott, Ph.D.

National Association of Coordinators of State
Programs for the Mentally Retarded, Inc.

February 23, 1976

The National Association of Coordinators of State Programs for the Mentally Retarded is a non-profit organization representing state directors of programs for mentally retarded children and adults. Our primary organizational aims are to facilitate the exchange of information concerning the most efficacious techniques of serving mentally retarded persons and to represent the interests of state mental retardation agencies on issues of national significance.

Since state mental retardation agencies generally serve the most severely retarded, multi-handicapped portion of the population, our primary interest lies in the responsiveness of the federal-state vocational rehabilitation program to the needs of severely mentally handicapped individuals. For this reason, we would like to focus our remarks today on the following topics: (1) the impact of the statutory priority for service to the most severely handicapped; (2) the utilization of sheltered workshops as a means of training handicapped workers, especially the most severely handicapped; and (3) the use of special project funds to demonstrate new techniques for rehabilitating mentally retarded and other developmentally disabled persons.

I. Rehabilitation Services to the Severely Handicapped

Since the late 1950's, state vocational rehabilitation agencies have been involved in providing work-related evaluation and training services to mentally retarded clients. In 1973, largely through the efforts of this Subcommittee, Congress rewrote the Vocational Rehabilitation Act. One of the major changes in the new Act was a strong emphasis on services to severely handicapped clients.

Last year, as part of a survey of nationwide trends in services to the mentally retarded, our Association asked state directors of mental retardation programs whether the new statutory emphasis on serving severely handicapped persons had resulted in perceptible changes in the goals and activities of rehabilitation agencies in their states.[1] The responses we received were quite revealing.

Only fifteen of the forty-eight respondents indicated that there had been any noticeable changes in the activities of the state vocational rehabilitation agency as they relate to severely retarded individuals. Six others reported that strong cooperative relationships between the state vocational rehabilitation and mental retardation agencies had existed long before passage of the 1973 Act and this spirit of cooperation was continuing. The remaining twenty-seven state coordinators who responded to the question said that they could perceive little or no change in the policies or priorities of the state vocational rehabilitation agency in their states. In some instances they described long established cooperative programs involving the mentally retarded which had been worked out with the state rehabilitation agency; however, they indicated that there has been no new initiatives undertaken as a result of the 1973 Act. Other state directors stated quite bluntly that they had never received a significant degree of assistance from rehabilitation agencies and they did not see the situation changing. This impression is undergirded by the fact that over half of the respondents (22 out of 40) who gave a definitive answer said that the mentally retarded were not being given a "fair shake" in gaining access to vocational rehabilitation services.

In commenting on the responses of state mental retardation officials, the survey report concludes that:

> "[T]he Association's staff was struck by the apparent wide differential in the range and scope of rehabilitation services delivered to the mentally retarded from state to state. It seemed clear that the responsiveness of rehabilitation agencies to the needs of the mentally retarded - particularly those with severe handicaps - was more a function of the historical attitudes of rehabilitation leaders in the state than any response to changes in federal law."

This impression is supported by the findings of the Urban Institute's study on the needs of severely handicapped persons.[2] After analyzing statistical data on the acceptance and closure rates for mentally retarded clients prepared by the Rehabilitation Services Administration, the authors of the report pointed out that the rates for acceptance of retarded clients in FY 1972 varied from a high of 20.7 percent in Missouri to a low of 3.6 percent in West Virginia - or almost a six fold difference. Variations among the states in the placement of severely retarded clients was even more striking. Reports from state rehabilitation agencies indicated that the total completed caseloads classified as moderately to severely retarded ranged from 0.5 percent in Kentucky to 5.8 percent in Indiana.

In fairness to state rehabilitation agencies, it must be said that, at the time of the survey, agency officials had had precious little time to respond to the new federal initiative, since the revised regulations were not issued in proposed form by HEW until June, 1974. In addition, Congress has placed vocational rehabilitation agencies in the difficult (some would say impossible) position of trying to improve services to the severely handicapped while maintaining services to existing clients - all of this without any substantial increases in federal appropriations and during a period of serious inflation.

We are unaware, however, of any major new developments since the preparation of the Association's survey report last year and are forced to conclude, as we did at the time, that "the record of achievement on behalf of most severely retarded persons is still rather spotty." The Congressional mandate to serve the severely handicapped has had little or no impact on the expansion of rehabilitation services to the severely mentally retarded.

If our conclusion is correct, the logical question is: what can Congress do to see that the original statutory intent is carried out? In addition, one might ask: must the statutory role of the vocational rehabilitation agency be expanded in order to meet the full range of service needs of severely handicapped persons? In other words, should the Rehabilitation Act include authority to support non-vocational services to persons whose handicaps are so severe that their prospects for self-support are extremely limited. Although we recognize that the answers to these questions are closely intertwined, we will address them separately since they pose different legislative and administrative problems.

A. Vocational Services to the Severely Handicapped

1. The Role of Rehabilitation Agencies. If one assumes that the fiscal constraints which have faced the rehabilitation program (as well as many other HEW programs) over the past few years are likely to continue in the foreseeable future, then it seems inevitable that some hard choices will have to be made about how to deploy the federal funds which are made available. In P.L. 93-112, Congress made it abundantly clear that states should give top priority to serving "those individuals with the most severe handicaps." However, state rehabilitation agencies also were told not to discontinue service to non-severely handicapped clients. With insufficient case service monies to serve all clients, agency officials were caught in a bind - i.e., how could the severely handicapped mandate be fulfilled without dropping other clients from the caseload. Compounding this problem was the agencies' legal vulnerability to suit if they denied services to any handicapped applicant - whether or not he was severely handicapped.

Given the difficulty of defining the severity of an individual's handicap in objective terms and the pressure for increased closures among the severely impaired, it was inevitable that there would be wholesale reclassification of clients. While this charge is difficult to document, the sharp increase in the percentage of severely handicapped clients served in some states over the past two years does not seem to be reflected in an expansion of services to previously excluded groups. Instead, clients who formerly would not have been labelled severely handicapped are being so designated in order to meet national target goals.

We strongly recommend that this Subcommittee give serious attention to re-defining the role of the vocational rehabilitation program in the total spectrum of federal manpower development and training efforts. If the Subcommittee expects rehabilitation agencies to concentrate a greater percentage of their resources on severely handicapped clients during the current period of fiscal stringency, then an attempt should be made to delineate the types of clients who will not be served under the federal-state program. For example, thousands of handicapped adolescents in public schools across the country require reality-based vocational preparation in the later years of their schooling if they are to make a successful adjustment to the job market. On the whole, public schools have done a poor job of furnishing handicapped adolescents with marketable skills. In many parts of the country, vocational rehabilitation agencies, beginning in the early 1960's, moved to fill this gap by supporting work-school programs and out-stationing rehabilitation counselors in the schools. Indeed, a significant portion of expenditures to rehabilitate the mentally retarded - particularly mildly handicapped or "educable" youngsters - has been directed toward such cooperative work-school programs in recent years.

Through the leadership of this Subcommittee, Congress last year enacted sweeping new legislation to support the education of handicapped children (P.L. 94-142). One of the least discussed implications of P.L. 94-142 is that local public schools will be expected to play a more agressive role in preparing handicapped youth for remunerative employment. The implication of this decision on the future role of state rehabilitation agencies should be carefully examined. As recent independent reviews of the federal-state vocational education program (by GAO and other groups) tend to indicate, many public schools will be reluctant to expand vocational preparation services to handicapped children and youth. Thus, the rapid withdrawal of rehabilitation agencies from work-school programs may have some very undesirable side effects. In any event, the future role of rehabilitation agencies in serving school aged clients and interfacing with school systems deserves this Subcommittee's attention.

Similar questions could be raised concerning the rehabilitation agency's role vis-a-vis mentally ill clients served by community mental health centers, drug addicts, alcoholics and persons suffering from spinal cord injuries. The common feature in each situation is that the expertise and resources of the rehabilitation agency must be interdigitated with those of other health or social service systems which have their own responsibilities for providing comprehensive services to their clientele. The parameters of the rehabilitation agencies' involvement in each instance should be addressed by the Subcommittee.

2. Improving Interagency Action. One of the distinguishing characteristics of severely handicapped individuals is that they usually require a variety of training and support services over a prolonged period of time. In the past, the rehabilitation program was ideally suited to addressing the complex service needs of such individuals because: (1) there were few restrictions on the types of medical, psychological, training and support services which the rehabilitation counselor could purchase in order to assist his client in attaining a rehabilitation objective; and (2) the demand for services generally was well balanced with the supply of available fiscal resources.

In recent years, however, several developments have converged to complicate the situation. First, the resources and legal mandates of other state and community agencies to serve handicapped Americans have been vastly expanded. Thus, as mentioned above, we now recognize that the public schools have a responsibility for vocational and career training of severely handicapped youngsters; community mental health centers are charged with delivering and coordinating comprehensive services to seriously disturbed adolescents and adults; retardation centers provide and purchase a wide variety of habilitative services on behalf of mentally retarded and other developmentally disabled persons while drug and alcohol treatment centers play a similar role for alcoholics and drug addicts. In addition to the proliferation of service systems, we have witnessed a sharp expansion in the individual entitlements of severely handicapped persons over the past decade. An increasing proportion of surgical costs and medical rehabilitation expenses are covered under either private health insurance plans or Medicare or Medicaid. As we move toward some form of national health insurance plan (or, at least catastrophic coverage) this trend seems almost certain to continue. Expanded Social Security benefits and the enactment of the Supplementary Security Income program also have provided many severely handicapped persons with the necessary resources to cover their basic living needs.

As income maintenance and other service resources have expanded, rehabilitation agencies have been faced with a sharp rise in client expectations and dwindling budgetary increases. This combination has made it more difficult to arrange cooperative agreements with other agencies at a time when more and more severely handicapped clients are served by at least one other human service agency.

We conclude, therefore, that one of the most important steps Congress could take to expand vocational rehabilitation services to the severely handicapped is to stimulate improved cooperation between federal and state agencies interested in the welfare of this population. Traditionally, the onus of seeking cooperative relations has rested with the state rehabilitation agency. This approach worked rather well as long as the rehabilitation agency had sufficient funds to purchase services from other state and local agencies. Now that the necessary resources to provide truly comprehensive services are shared among two or more agencies, negotiating cooperative agreements around any unilateral client objectives becomes more difficult - especially since each of the agencies involved has its own goals and priorities for the clients and, in all probability, faces severe resource constraints.

One approach which the Subcommittee might explore is to mandate interaction between responsible federal agencies around a series of client-centered objectives. Thus, for example, the Rehabilitation Services Administration might be required, by statute, to cooperate with the Developmental Disabilities Office to demonstrate the feasibility of vocationally rehabilitating severely handicapped, developmentally disabled adults. The two agencies, working cooperatively with their counterpart agencies at the state level, could develop specific goals and objectives, methodologies and procedures and criteria for success. Similar arrangements might be worked out between RSA and NIMH, the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, etc.

In order to assure that some funds are available to launch such a venture, the Subcommittee might consider earmarking a portion of Innovation and Expansion Grant funds for this purpose. This amount could either be taken from the 50 percent of I & E funds earmarked for Secretarial priorities or equal parts could be reserved from the states' and the Secretary's share of I & E funds.

We suggest this new approach to stimulating interagency action on behalf of the severely handicapped because we are convinced that cooperation is exceedingly difficult to achieve at the state and local levels when there is no demonstrable evidence that the responsible federal agencies want to work together. Indeed, the barriers to cooperation are frequently insurmountable when a national spirit of cooperation does not exist.

3. Expanded Use of Extended Evaluation Authority. Since the enactment of the 1965 Amendments to the Vocational Rehabilitation Act (P.L. 89-333), the federal law has permitted state rehabilitation agencies to furnish evaluation services to mentally retarded clients for up to 18 months. This so-called extended evaluation provision was later expanded to other disability groups. However, while a few states have used the extended evaluation authority as an effective tool in expanding services to severely handicapped individuals, on the whole, this section of the law has been badly underutilized.

The Subcommittee should explore means of encouraging states to make more frequent use of extended evaluations in dealing with clients who otherwise would be considered infeasible candidates for rehabilitation services. Requiring the Rehabilitation Services Administration to report the state-by-state ratio of the number of case closures due to severity of handicap to the number of extended evaluations would be one step in this direction.

4. Improved Reporting System. Whether or not the states are making any progress in implementing the Congressional mandate to serve severely handicapped clients is difficult to assess. RSA's current reporting requirements do not require the states to submit data and reports which lend themselves to nationwide comparisons. For example, RSA's most recent Program Regulation Guide notes that:

> "[N]o two States have exactly the same management structure. This results in variations in service delivery. Some States have introduced organizational features which make programs accessible and proficient for serving severely handicapped people. Other States providing the same basic vocational rehabilitation services, serve fewer severely handicapped people. They have arranged their service delivery system (offices, facilities, staff assignments) and have trained their staff so as to serve a wider spectrum of disabilities many of which are not severely handicapped."[3]

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8. Non-Vocational Services to the Severely Handicapped

In late 1972 and again in early 1973, Congress enacted legislation which would have authorized a new independent living program to assist severely handicapped individuals. Unlike the basic rehabilitation program, the primary goal of the program was not to place disabled individuals in gainful employment but to help them make a more successful adjustment to community life through the provision of a wide range of supportive services.

Both times the legislation was passed by Congress it was vetoed by President Nixon; when attempts to override the veto failed, a compromise measure was enacted which deleted the independent living authority and substituted a provision for an in-depth study of the needs of severely handicapped individuals.

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> "As the representative of state agencies which are responsible for providing services to over 200,000 institutionalized retarded individuals and many thousands more severely disabled children and adults in community settings,

> we are concerned about the lack of training and long term sheltered employment opportunities for severely handicapped adults. Often such services can spell the difference between a life of total dependency in an institutional setting and a semi-independent, normalized living situation in the community. In fact, there are literally thousands of moderately to severely retarded adolescents and adults currently residing in state institutions who could live a happier, more rewarding life if adequate, work oriented programs and supervisory living arrangements were available in the community...
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> Despite recent improvements in the Act (such as provisions for extended evaluation of work potential) the single objective of the federal-state rehabilitation program remains to help handicapped persons achieve economic independence. No one could argue with this noble aim. In fact, over the past decade some 200,000 retarded adults - primarily mildly afflicted individuals - have been placed in jobs through the efforts of state rehabilitation agencies. Nonetheless, we are concerned that many seriously disabled individuals with work potential are not being served by the rehabilitation program because of the overriding emphasis on serving clients who are 'feasible' candidates for placement in competitive industry.
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> In many instances, complete economic independence may not be a realistic goal for the seriously afflicted individual. They may require long term or even lifetime placement in a sheltered workshop, work activity center or some other type of semi-protected work environment. Nonetheless, we would argue that every individual - regardless of the severity of his handicap - has a right to hold a job which is commensurate with his abilities. In addition, many studies have demonstrated the sharp improvements in social adaptation of handicapped persons which occur once they are employed. Offering severely handicapped individuals an opportunity to work not only confers an imprimatur of dignity in our work-oriented society but also saves the American taxpayers money since it is considerably more expensive to maintain such individuals in a state or private residential institution."[4]

Although nearly four years have passed since we initially outlined our views on the subject, the Association continues to feel that there is an important role which rehabilitation agencies should play in serving severely handicapped workers who are incapable of total self support. However, we seriously doubt that Title II of the bills vetoed by the President in 1972 and 1973 would address the problems of severely impaired, developmentally disabled clients. The purpose of these measures was to provide non-vocational, support services which would make it possible for severely handicapped persons to live independently. A very small percentage of the population we are concerned with would be able to live independently because of the severity of their intellectual handicaps.

In addition, after studying results of the Urban Institute's study, we are convinced that the term "severe disability" as it is used by most rehabilitation agencies is far removed from the concept applied by agencies responsible for working with the mentally handicapped. For example, when the project staff interviewed a random sample of 889 clients rejected by vocational rehabilitation agencies as too severely handicapped, they found that only 11 percent were severely or totally dependent. The remainder were found to be completely independent in self-care and mobility (45%), slightly dependent (14%) or moderately dependent (30%) according to the Barthel Index.[5]

For the above reasons, we recommend that the Subcommittee focus any new authority to meet the needs of severely handicapped clients who are incapable of achieving complete self support on the work-related aspects of the individual's overall habilitation program. Other community agencies are generally better equipped to meet the clients' needs for housing, transportation, counseling, medical care and similar ancilliary services. The expertise of rehabilitation agencies would be most useful in developing marketable skills among severely impaired clients - even though the clients may never be economically or socially self sufficient.

By adopting this approach, the Subcommittee would avoid unnecessary overlap with the responsibilities of other health and social service agencies and assure the traditional skills of the rehabilitation specialist are properly utilized. Since much of the training would take place in long term sheltered employment settings (e.g., sheltered workshops, etc.), it is interesting to note that roughly 20 state rehabilitation agencies have state funded programs to support severely disabled clients in long term sheltered employment. In other states, similar grant programs are operated by state mental health and mental retardation agencies. We would strongly recommend that any non-vocational authority attempt to build upon the experience of the states rather than attempting to be all things to all severely handicapped persons. In this way, limited federal funds could be used most effectively to achieve targeted objectives.

II. The Role of Sheltered Workshops in the Rehabilitation of the Severely Handicapped

The Greenleigh Associates' report on sheltered workshops documents the fact that slightly over half of the 410,000 clients served in such facilities annually have a primary disability of mental retardation.[6] An even higher percentage of clients in facilities classified as work activities centers - the fastest growing area of the workshop movement - are mentally retarded.

The Greenleigh study also shows that workshop clients receive extremely low wages, with clients in specialized workshops and work activities centers for the mentally ill and mentally retarded at the bottom of the list both in terms of hourly wage and gross annual earnings. The authors demonstrate how the lack of capital resources, equipment and business acumen hamstring the operation of most small workshops and contribute to the low wage rates.

These findings tend to reinforce what professionals in the field have long realized. As the study suggests, we need to take a hard look at the variety of roles we are asking sheltered workshops to perform and ask ourselves whether some of these functions cannot be handled more effectively and efficiently by other social service agencies. For our part, we are convinced that there is a long term need for sheltered employment opportunities for severely impaired, developmentally disabled persons and that vast improvements are possible in workshop productivity if we can break with our preconceived stereotypes about the workshop and its clients.

For example, research on the vocational training of the mentally retarded indicates that we may be grossly underestimating the capacity of severely disabled persons to perform successfully in work situations. A team of investigators from the Children's Research Center at the University of Illinois recently demonstrated that sixty-four moderately to severely retarded individuals could be taught to perform complex industrial assembly tasks in an amazingly short period of time through the use of intensive, carefully planned training techniques. Principal investigator Dr. Marc W. Gold concludes that "the field of the habilitation of the mentally retarded. . .today in the United States. . .exists within a context where the population with whom it deals is perceived by almost everyone as being far less capable than is really the case."[7] The clear implication of this research is that the low expectancy levels of parents and professionals alike and the failure of rehabilitation agencies to adopt modern industrial training techniques are among the major factors limiting the placement of severely retarded clients in highly productive jobs.

While we are not prepared to make any specific recommendations at this time for revitalizing sheltered employment for the severely handicapped (other than those made earlier in our testimony), we do feel that the subject is one which deserves this Subcommittee's serious attention.

III. Special Project Grants

In the Rehabilitation Act of 1973 (P.L. 93-112), Congress completely rewrote the authority for awarding special project grants to the states by adding several new priority funding areas and dropping a reference to rehabilitation projects for mentally retarded persons unable to attain vocational objectives (Section 304(b)(1)). When confusion arose over the funding of continuation grant projects serving the mentally retarded and other developmentally disabled persons, this Subcommittee inserted language in its report on the Rehabilitation Act Amendments of 1974 (P.L. 93-516) explaining that Congress expected HEW officials to continue funding MR-DD projects under Section 304(b)(1) until action was completed on legislation which included a new special project authority for developmental disabilities programs.

This message was repeated in the Senate Committee's report on the Developmentally Disabled Assistance and Bill of Rights Act (S.Rept. No. 94-160), which eventually was enacted into law last October (P.L. 94-103). At that time, the Committee made it clear that projects designed for developmentally disabled persons with vocational potential would still be eligible for support under Section 304(b)(1), saying:

> ". . .[T]he Committee wishes to make very clear that it will not accept the interpretation that after the enactment of special project authority under this legislation all special projects which serve developmentally disabled persons must be funded under the Developmental Disabilities legislation, or that developmentally disabled persons are no longer eligible under the basic State grant program in the Rehabilitation Act. Individuals with developmental disabilities shall still continue (sic) to be eligible as all other handicapped individuals are eligible under the Rehabilitation Act, either under special projects or the basic State grant program" (emphasis added).

Since, as we indicated above, it is our belief that the true vocational potential of moderately to severely retarded individuals is being grossly underestimated, we hope that this Subcommittee will reiterate its intention that vocationally oriented MR-DD projects will be eligible for support under Section 304(b)(1) of the Rehabilitation Act. Further, we recommend that 30 percent of new special project grant appropriations (above the FY 1976 amount) be earmarked for this purpose. Without such earmarking we seriously doubt that adequate attention will be given to demonstrating new techniques for training and placing mentally retarded, cerebral palsied, epileptic and autistic persons into remunerative employment.

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We want to thank the Subcommittee for providing us with this opportunity to present our Association's views. We trust that you will find them helpful in considering legislation to extend and improve one of the federal government's most humane and successful programs.

Footnotes

1. Gettings, Robert M., Trends in State Services to the Mentally Retarded: A Survey Report, President's Committee on Mental Retardation (forthcoming).

2. Urban Institute, Comprehensive Needs Study of Individuals with the Most Severe Handicaps, June, 1975.

3. Program Regulation Guide, "Rehabilitation Services Manual Transmittal Number 30, dated January, 1976, on Expanding and Improving Services to the Severely Handicapped", Rehabilitation Services Administration, Office of Human Development, Department of Health, Education, and Welfare, RSA-PRG-76-15, dated January 9, 1976.

4. Ray, David B. Jr., Legislative Chairman, National Association of Coordinators of State Programs for the Mentally Retarded, Inc., "Statement of Testimony on the Vocational Rehabilitation Amendments of 1972", presented before the Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, June 6, 1972.

5. Urban Institute, Executive Summary of the Comprehensive Needs Study of Individuals with the Most Severe Handicaps, June 10, 1975.

6. Greenleigh Associates, Inc., The Role of the Sheltered Workshops in the Rehabilitation of the Severely Handicapped, July, 1975.

7. Gold, Marc W., "Research on the Vocational Habilitation of the Retarded: the Present, the Future", in International Review of Research in Mental Retardation, N.R. Ellis, Editor, Vol. 6, Academic Press: New York, 1972.

Senator RANDOLPH. Our next witness is Mr. Enck, executive director of UCPA of the Pittsburgh district, United Cerebral Palsy Associations.

Please come to the witness table and supply the name of the person accompanying you and give us some information on the organization for which you speak. This will be helpful for the record.

STATEMENT OF FREDERICK A. ENCK, ON BEHALF OF UNITED CEREBRAL PALSY ASSOCIATIONS, EXECUTIVE DIRECTOR, UNITED CEREBRAL PALSY ASSOCIATION, PITTSBURGH DISTRICT; ACCOMPANIED BY E. CLARKE ROSS, ASSISTANT DIRECTOR, UCPA GOVERNMENTAL ACTIVITIES OFFICE, WASHINGTON, D.C.

Mr. ENCK. My name is Frederick Enck and I am executive director of one of the 300 local United Cerebral Palsy affiliates in the country. I am from the Pittsburgh district.

I have with me Mr. Clarke Ross who is assistant director of our governmental activities office here in Washington.

As might be expected, I would like to speak principally on behalf of persons with severe disabilities. Our written testimony will be submitted.

Senator RANDOLPH. It will all be included in the record at the conclusion of your testimony.

Mr. ENCK. We have indicated that a definition of "severe disability" has recently been adopted by our National Governmental Activities Committee. It is very brief, sir.

It states: "Severely disabled persons are those individuals who have a severe physical or mental disability or a multiplicity of disabling conditions which seriously limits their functional capabilities such as mobility, communication, self-care, self-direction, independent living, work tolerance, or work skills."

We submit that this particular definition is more functional, more operational, as opposed to a laundry list of various diagnostic labels which we feel are somewhat misleading. For instance, a condition like cerebral palsy; while it is quite possible that an individual with cerebral palsy can be very mildly physically handicapped, with normal or much higher than average intelligence, it is also possible to describe those who are severely physically handicapped and profoundly retarded.

The label itself is sometimes misleading.

Senator RANDOLPH. By the way, Dr. Enck, I knew a person who was completely normal in appearance, yet I found him to be a man who is envious of his neighbor; I found him to be a man who was very critical about everyone else but himself.

I found that he had malice in his heart, and I said, There is the man who is handicapped.

So handicapped, you know, can be inside of you; is that not right?

Mr. ENCK. That is so true.

Senator RANDOLPH. Sometimes we say so-and-so is handicapped, and we had better be very careful because some of the greatest handicaps are not seen, are they?

Mr. ENCK. Excellent point, sir.

Actually, as you point out, cerebral palsy is not a degenerative condition, and consequently there are many adults with cerebral palsy in relation to children. We find that many of our affiliates across the country are tending to serve more and more the adult population. In some communities and affiliates there are more adults than there are children.

In our effort to work with the comprehensive needs study conducted by the Urban Institute, 13 of our local affiliates who have rather sophisticated programs serving the adult supplied us information which revealed that at least 90 percent of the adult clientele being served certainly fell within this category of the severely disabled, as we defined it above.

This was contrary to the findings of the Urban Institute study, which indicated that of the severely disabled that they interviewed, an overwhelming majority were not involved in terms of their lack of ability to carry on in the areas of what we call activities of daily living, as opposed to our clientele who do fall within this area.

I think that although it is probably not going to be realistic to expect that the vocational aspects of the Vocational Rehabilitation Act in the immediate future will be dropped, we do feel it is important to point out that vocational success is not determined by primarily skills development but by many other variables, and some of these variables include the ability to live independently and to learn the skills to enable them to accommodate in the community independently.

In today's society, the assumption often is when our youngsters reach the age of late teens, early twenties, it is expected that they will be separating from the family. College, getting a job, marriage, or having their own apartment are common occurances. Quite frankly, the converse is true in terms of working with cerebral palsy and other severely disabled individuals; the assumptions are just the reverse, that they will not be leaving the family. As one of our cerebral palsy colleagues put it, cerebral palsy being CP sometimes is interpreted as being a permanent child or, the formula CP equals PC.

Another variable, of course, is the lack of available transportation.

For instance, in Pittsburgh there are five sheltered workshops, but realistically we find individuals who are severely disabled, wheelchair bound, are not able to jump on the local public bus and get from the home to the sheltered workshop. The alternatives are extremely expensive. We find that it is not unlikely that it would cost upward of $10 a day for this specialized transportation in order to earn a few dollars in sheltered workshops.

Another area affecting vocational success is the lack of existing adapted work environments. Certainly section 503 of the act and its mandate to industry to accommodate to the hiring of the severely disabled focuses on this problem. Yet we find that hardly anyone is really attempting to work with industry to help it meet its accommodation responsibilities under section 503.

Certainly the attitude of society is another barrier. We have talked to many severely disabled individuals, and they have indicated to us, as you pointed out yourself, sir, that it is not so much their disabling conditions but is often the attitudes of society that imposes the greatest handicap on them.

In an effort to counteract these various variables that we have mentioned, we would like to urge the Congress to earmark funds for demonstration and replication of services to those with severe disabilities. For example, an embarrassing amount of technology already exists.

Projects such as are conducted right here in the District of Columbia. The George Washington University Job Development Laboratory is taking existing technology and with very small amounts of investment of moneys are able to adapt the environment in a work setting so that it is possible for individuals in their thirties and forties, who have never worked before, who are severely disabled and in wheelchairs, for the first time to be able to earn their $7,000, $8,000, $10,000 a year in using existing technology in the whole field of computer programing, in micrographics, and other areas. If we could just replicate some of the very splendid things being done right here across the country, and many other areas, it would give options to rehabilitation counselors where they are attempting to serve someone severely involved——

Senator **Randolph**. I think that is very important. Here is a resource, a potential, and it must not be allowed to be wasted. It must be utilized. That is what you are saying.

Mr. **Enck**. Excellent point, sir.

To follow up just in what you have indicated, the whole field of bioengineering, rehabilitation engineering is available, and we have not been using it by virtue of the fact that—when I say "we," I am referring both to the private sector as well as the public sector—in utilizing their skills in terms of applying those technologies to serving the severely disabled.

And as has been indicated, there is a lack of coordination and cooperation between private and public sector, and among the service delivery systems within the public sector, such as education, and vocational education, special education, health and welfare.

We need to be able to determine that there are in fact linkages set up between varying delivery systems in the overall human system.

One other concern that we have, sir, relates to the lack of training among vocational rehabilitation personnel across the board, to serve the severely disabled.

In our testimony we talk about an excellent paper prepared by Dr. Galvin, who is going to be I understand testifying this morning, in which he indicates, "I feel the need to restate here the observation that many counselors are not prepared by academic training, work experience or personal interest to serve the severely handicapped."

We are urging of course that funds earmarked to provide the State agencies the training required to serve this new population, new to them.

Senator **Randolph**. We do appreciate the testimony you are giving here today, the points you are raising and the help that you are giving to us. As I indicated before, we want you to know that this continuing dialog is very helpful.

Senator Schweiker, we are happy that you are here this morning and we are delighted to have you question the witness and make such comment as you desire. As you know, he is from your State.

Senator **Schweiker**. Thank you very much, Mr. Chairman.

I appreciate your leadership and work in this area which we highly respect and, in addition, we are delighted to hear one of my constituents, who has been very active in this field at the State level of participation.

Mr. Enck, I understand before I came—I am sorry I had another conflict—you did touch on the problem of transportation.

I would like to explore that a little bit more. I do hear some complaints from people in Pennsylvania about the transportation problem.

First, I would like to get a definition of the problem.

Who is handling transportation now? Is this something the voluntary agencies do?

How much Federal help, if any, can they get for it, and just where does that responsibility lie for the transportation aspects of the program?

Mr. ENCK. Actually there is very little public transportation that is adapted to accommodate the severely disabled. Obviously, someone in a wheelchair needs adaptation of existing vehicles, such as hydraulic lifts, and this is a very expensive operation.

Unless built into the delivery system as an opportunity to get the people from their homes, which is where they are literally trapped, to where the program exists, then as I say, without this transportation, sir, the development of the greatest programs would be for nothing, and it is an extremely important component.

Senator SCHWEIKER. I realize this is the Harrisburg area and not Pittsburgh, but one of the complaints I had was initially the local chapter had a van to do the transporting.

On the other hand, the costs were so high they have now discontinued the van service, so there is none.

As you say, this really isolates and traps the people.

What are your suggestions or thoughts as to what should be the focus of the Federal oversight? How can we pick up this ball, which for cost reasons has apparently gotten out of hand? What is your thought?

Is this something that we ought to be providing Federal money for, encouraging the States to do it? Or how much responsibility can a chapter assume locally with the cost problems?

And what do you do in Pittsburgh about it?

Maybe that might be a helpful comparison.

Mr. ENCK. A combination of sources of funds, in order to be able to provide this needed service, none of which comes from the Vocational Rehabilitation Act, to be quite frank. We are a member of the United Way and some of our funds come from this source to provide the transportation.

We have a contract under title 20 of the Social Security Act to provide a vast array of developmental programs for severely involved adults.

As part of that contract, sir, there are funds in it to provide this specialized transportation that we spoke of earlier. We both purchased this service from private vendors in combination with some of our own vehicles, and another source, to answer your question, is section 16(b)(2) of the Urban Mass Transportation Act.

Under this arrangement we are expecting to receive funds under a matching arrangement to purchase three additional specialized and adaptive vans to accommodate this purpose. The point really being if vocational rehabilitation is sincere in serving the severely involved, transportation must be built in as one of the services, if we are to be able to accomplish the objectives.

Senator SCHWEIKER. How much responsibility does the State agency assume in your judgment as opposed to the local chapter? In other words, I am trying to find a general definition of the problem as you see it, forgetting Pittsburgh now, which probably is a unique case.

Mr. ENCK. I think one of the areas that comes to my mind is the need for various public transportation systems to accommodate to the need to provide as part of its service transportation facilities for the severely disabled. I do not think that it falls specifically and solely within the purview of vocational rehabilitation, but within the Department of Transportation, and its commitments to adhere to mandates that it has in turn received from Congress to modify existing programs, to accommodate to the severely involved.

This admittedly is a very expensive proposition, but again getting back to the testimony we supplied earlier, we have within our capabilities right now existing technologies that, with minor modifications, can be utilized, and just to use the research and technology that we have, to provide transportation services within the broad range of transportation services to the general public.

Senator SCHWEIKER. You are quite right in saying it directly; I realize it is not pure vocational rehabilitation, but if you say they cannot get to the educational center, obviously it becomes a serious impediment to the process.

By the same token, if after the vocational rehabilitation process, they want to strike out on their own and do something with their ability, training and background, and do not have access to transportation, they are also zapped out. If transportation is not available at two critical stages, the local vocational rehabilitation program goes by the boards. That is what I see happening in the Harrisburg area. I do not quite know what the answer is. I am concerned about it.

I think it is something our committee has to look into.

Senator RANDOLPH. Senator Schweiker, at the first hearing last week we had testimony from a witness indicating that UMTA was not moving in this area with the vigor that is necessary. That was strongly brought up by one witness, and perhaps other witnesses. So we have every reason to believe that we ourselves here in the Senate and this subcommittee must attempt to study the matter of accessible transportation very carefully; and, frankly, we will be doing that over in the Senate Public Works Committee as well. In addition, I hope the Banking, Housing and Urban Affairs Committee is reviewing this matter.

Senator SCHWEIKER. It might be possible, Mr. Chairman, following that lineup to review our findings with UMTA itself.

If this breaks down, the whole program breaks down as I found out in the Harrisburg problem.

I appreciate your remarks.

Senator RANDOLPH. That is what we are thinking that we should do. UMTA will be asked to testify at a later time.

Mr. ROSS. I would like to comment on the UMTA situation.

We who attempt to speak for disabled persons are asked by UMTA to choose between either totally accessible mass transit systems or specialized door-through-door systems that pick people up at home and take them to education, rehabilitation, et cetera.

And the problem all goes back to cost. We cannot choose one or the other. We believe that disabled individuals have the right to use public transportation. It should be accessible. But we have to say that not all disabled persons are going to be able to use accessible mass transit systems. So we are in a real dilemma.

We are being asked by UMTA to make a decision for them; to choose one system over the other. However, if we are really going to speak for the disabled population at large, we cannot choose. We realize it is costly. We have to say a majority of the disabled people could use accessible mass transportation systems. But, there is still going to be a segment of the population—the severely and multiply disabled—who need assistance at and in their homes and need to be picked up and taken to their desired destination.

I do hope you have UMTA up and work with other congressional committees in asking UMTA these kinds of questions. They have been unwilling to make a commitment and are asking the constituencies to make some type of decision for them, and we cannot, although we realize that in the practical world it is expensive.

Senator **Randolph**. Just following that through, I know Senator Schweiker would know that there are areas, remote areas, in West Virginia and Pennsylvania, where frankly we do not even have the transportation for the so-called able bodied.

You take the eldery person or the person who has no way to go to the doctor or no way to go to the store. I know one person who told me at a hearing:

> I have good neighbors and they want to help me; but Mr. so and so, well, he has to go to work early in the morning to earn a living for his family, so he cannot take me in his car. He does what he can on weekends and so forth. But there is no transportation at all in wide areas for anyone.

It is a very hard problem to solve.

Do you have something more, Senator?

Senator **Schweiker**. No; that is all.

Senator **Randolph**. Thank you very much, Mr. Enck and Mr. Ross.

Mr. **Enck**. Thank you.

Mr. **Ross**. Thank you.

[The prepared statement of the United Cerebral Palsy Association, Inc., as presented by Mr. Enck, follows:]

STATEMENT

RESPECTFULLY SUBMITTED

TO

THE SUBCOMMITTEE ON THE HANDICAPPED

OF THE

SENATE SUBCOMMITTEE ON LABOR AND PUBLIC WELFARE

ON

IMPLEMENTATION OVERSIGHT OF THE REHABILITATION ACT OF 1973

ON BEHALF OF

UNITED CEREBRAL PALSY ASSOCIATIONS, INC.
THE CHESTER ARTHUR BUILDING
425 "I" STREET, N.W., SUITE 141
WASHINGTON, D.C. 20001

PRESENTED BY

FREDERICK A. ENCK, EXECUTIVE DIRECTOR

UNITED CEREBRAL PALSY ASSOCIATION OF
THE PITTSBURGH DISTRICT

FEBRUARY 23, 1976

United Cerebral Palsy Associations, Inc. strongly supports the necessity for and continued operation of the Vocational Rehabilitation program. The Rehabilitation Act has provided opportunity for many thousands of persons to be rehabilitated, to be employed, and to live broader lives. Our testimony today will suggest new approaches which might broaden the concept of rehabilitation in order to better serve those persons with the more severe disabilities. Areas of UCPA concern include:

- UCPA and DVR Services for Persons With Severe Disabilities
  - Comprehensive Needs Study
  - Legislative Amendment
- Rehabilitation Technology
  - Rehabilitation Research Centers
  - Legislative Action
- Issues of State Agency Administration
  - Client Grievance Systems
  - Service Linkages
  - Training of Counsellors
  - Legislative Action

UCPA AND DVR SERVICES FOR PERSONS WITH SEVERE DISABILITIES

The National Governmental Activities Committee of United Cerebral Palsy Associations, Inc has adopted the following definition of "severe disability."

> "Severely disabled persons are those individuals who have a severe physical or mental disability or a multiplicity of disabling conditions which seriously limits their functional capabilities such as mobility, communication, self-care, self-direction, independent living, work tolerance, or work skills."

The number of severely disabled adults served by affiliates of United Cerebral Palsy Associations, is on the rise. In general, these adults have been refused services by State Departments of Vocational Rehabilitation because their disability was judged too severe for employment placement.

Accumulation of nationwide statistics on the severely disabled is beyond the capability of a voluntary private organization, such as UCPA, at this point in time. However, UCPA is able to compile significant information on a community by community basis. In a November 1974 survey of our affiliates in Chicago; Columbus, Ohio; Orange County, California; Seattle; Oklahoma City; Dallas; Middlesex County, New Jersey; New York City; Des Moines, Iowa; St. Louis; and Pottsville, Pittsburgh, and Scranton, Pennsylvania; these thirteen affiliates reported they are currently serving 1729 disabled adults, 1539 of which could be classified as severely disabled. Of these severely disabled persons, most have never been served by Vocational Rehabilitation, 90% receive Supplemental Security Income, the majority of the achievement levels were between the second and eighth grades, and the majority currently had minimal or no marketable skills.

It is this population, traditionally neglected and unserved by the Vocational Rehabilitation program, that we appear on behalf of today. Our testimony addresses the Rehabilitation program in light of its response to the severely disabled.

- Comprehensive Needs Study

The Urban Institute's "Executive Summary of the Comprehensive Needs Study of Individuals with the Most Severe Handicaps", as submitted to RSA in compliance with P.L. 93-112, reinforced a number of positions UCPA has maintained before this subcommittee for several years.

(1) "Because of its vocational orientation, the VR programs seems to be making conservative choices regarding acceptances. for example, about 12% of people in our sample who had been rejected by V.R. because of severity were working or had worked within one year of being interviewed. A much larger percentage had worked within three years."

(2) "Those referred from public and private health agencies and service organizations are more likely to be rejected for services, and if accepted, they are less likely to successfully complete the program... Severity of handicap is the most common reason for rejection for persons referred from all these sources."

(3) "Cross tabultations between diagnostic condition and severity revealved that there is only a minimal relationship between diagnostic labels and severity. This finding has important implications for the current RSA guidelines for determining Severity."

UCPA strongly objects to a conclusion of the Urban Institute Study: "On the basis of the Barthel Index, then, there is strikingly little evidence of overwhelming physical dependency in this sample. The same conclusion can be reached on the basis of other functional limitation items - most people closed for severity can perform almost all activities of daily living." The population served by UCPA is a subgroup of the nation's disabled population. But for this subgroup this statement is wholly inaccurate. A special need of the severely disabled with cerebral palsy is training in activities of daily living.

o Legislative Amendment

The Urban Institute Study observed that "while one-half of the population received counseling from VR, only 29% received any services in addition to counseling." This is most unfortunate. UCPA's survey undertaken for the Urban Institute identified a number of special needs of the severely disabled which required immediate attention. These included continuing education in basic academics and the broad educational areas, residential planning and services for a variety of alternatives in living arrangements, training in independent living, transportation alternatives, health care and maintenance, training in activities of daily living, training in socialization skills, vocational rehabilitation sponsorship, vocational counseling and planning, prevocational skills training, outlets for social and recreational activities, assistance in self-care when physical limitations preclude attaining independence, expansion of opportunities for development of personal awareness and self-esteem, means for understanding one's community and access to it, adaptive clothing, and full time permanent employment.

The Comprehensive Needs Study has been completed. What is the next logical step? UCPA believes and highly recommends that the Rehabilitation Act be amended to authorize a series of small demonstration projects for serving the severely disabled. Without this approach, the Comprehensive Needs Study may very well prove meaningless and another source of frustration.

REHABILITATION TECHNOLOGY

UCPA believes a tremendous amount of knowledge exists in the area of rehabilitation technology. But this knowledge has not been disseminated well, training efforts in this area have been few and far between, and encouragement to replicate the few existing models has not occurred.

In 1971 the UCP Research Foundation co-sponsored with the National Aeronautics and Space Administration a conference on "Technology and the Neurologically Handicapped." The conference addressed the subject of the application of technological developments to the problems of mobility and functioning as experienced by the disabled. This was followed in 1972 by a conference conducted by UCPA, the Veterans Administration, and the National Institute of Neurological Diseases and Stroke discussing the impact of electrode implants on decreasing functional limitations of the disabled. These efforts have been supplemented by UCP Research Foundation grants to Stanford University, Harvard-MIT Bio-engineering Center, Temple University, and New York University. New techniques and methods utilizing rehabilitation technology have been produced and perfected. Yet, they are not generally utilized by state Department of Vocational Rehabilitation counsellors. Neither are these advances understood nor appreciated by counsellors.

On March 8, 1974, in testimony before the House Subcommittee on Education concerning Oversight of the Vocational Rehabilitation program, Leonard H. Goldenson, UCPA Chairman of the Board of Directors, and William Berenberg, M.D., UCPA Vice-President for Medical Affairs and chairman of the UCP Research Advisory Committee, requested Congress to encourage or require the Administration to launch a coordinated collaborative effort to facilitate research development in the area of rehabilitation technology. This would require joint efforts of the Rehabilitation Services Administration, the Veterans Administration, the National Institutues of Health. and the National Aeronautics and Space Administration. Such an effort would also require meaningful participation by the private sector, such as UCPA. Leaving out the private sector, involvement, the Administration has developed cooperating inter-agency committees focused on many areas of rehabilitation technology. But somehow, the affect has not been felt at the state and local level.

o Rehabilitation Research Centers

UCPA encourages this subcommittee to ask the Administration this question when it comes time for a congressional appearance: What relationships have developed between RSA supported Rehabilitation Agencies and State Vocational Rehabilitation Agencies? And, what leadership has RSA provided in developing these relationships?

Many of the Rehabilitation Research Centers are operating very innovative and exciting programs. Committee members may remember seeing a January 26, 1976 Washington Post article entitled "Handicapped: Having Job Changes Outlook on Life." The story concerned the Job Development Laboratory at George Washington University, an RSA supported Rehabilitation Research Center. The article began:

> "A year ago, Horace L. Rabbitt, a severely handicapped victim of cerebral palsy, spent most of his time reading, watching television, and talking by telephone with a few close friends. At 47, Rabbitt, who has lived on social security, had never worked a day in his life. But on January 6, Rabbitt - who lives in Bethesda with his elderly parents - became a member of the national work force. He was hired by the federal Social and Rehabilitation Service as a computer programmer, a job that pays $8,000 a year."

Here is a man judged for years as too severely handicapped to have any potential for competitive employment. But with the utilization of rehabilitation technology he now works. What a pity Mr. Rabbitt had to wait 47 years. What a pity Mr. Rabbitt must reside with his elderly parents. When will our rehabilitation system encourage independent living and encourage full utilization of our knowledge to encourage employment?

Rehabilitation Research Centers, such as GW's Job Development Laboratory, are utilizing equipment and techniques thus far unfamiliar to Vocational Rehabilitation in such occupations as computer programmers, data entry operators (add-punch, keypunch, and optical character recognition typing), and bookkeepers. New tools are being developed for use in the emerging information industry. Such new techniques include remote control terminals accessing computers from the home, tapes feeding magnetically stored information from the bedroom of the typist over the telephone to the employer's files, and bookkeepers inputting source data on off-line paper tape.

Bio-engineering examines the functional aspects of each job very carefully. A simple task such as lifting and holding a telephone receiver can present a substantial problem to an individual who has no grasp and elbow extension and flexion. The purpose of the job analysis is to develop all of the functions so that creative solutions will resolve barriers. For example, a flexible extension (gooseneck) attached to a phone can hold the receiver in a required position for the individual.

Unfortunately, the rehabilitation counsellor, on the firing line with the disabled client or applicant, generally does not know how to utilize these new approaches. RSA has developed some publications, however, publications serve only as a stimulate. Real training requires demonstration. It is encouraging to note, that for the first time, several regional offices of RSA have actually allocated funds to support short term training conferences around the area of rehabilitation technology utilization. The existing knowledge is vast. An equally substantial training effort is required if existing knowledge is to be put to use.

- Legislative Action

UCPA encourages the subcommittee to include strong language of intent and direction to the Rehabilitation Services Administration to allocate significant resources in order to disseminate information and train rehabilitation personnel regarding the utilization of rehabilitation technology to better meet the needs of those individuals with severe disabilities.

ISSUES OF STATE AGENCY ADMINISTRATION

In examining state vocational rehabilitation agency initiatives in serving the severely disabled, UCPA would like to briefly highlight three areas: Client grievance systems, coordination with other state service agencies, and training of rehabilitation counsellors.

- Client Grievance Systems

State Vocational Rehabilitation Plans are required to detail provisions permitting all clients who are dissatisfied with any actions with regard to the furnishing or denial of such services the opportunity to request an administrative hearing concerning his services. In addition, at the time of the first interview, every applicant of vocational rehabilitation services shall be informed of the opportunity available to him to seek such a hearing

UCPA affiliates in New York, Kansas, and Pennsylvania report that absolutely no written information has been prepared or printed for distribution to clients regarding their rights of due process. Kansas does inform the applicant who has been denied servicesof his right to appeal as part of the denial letter. Massachusetts Department of Vocational Rehabilitation claims to have developed written information regarding their clent grievance systems, but when UCPA contacted state offices, they could not find a single state employee knowledgeable about the process. Missouri and Rhode Island, [illegible] developed a client grievance system, has printed brochures for client use, and has begun to disseminate this information to counsellors, clients, and private advocacy and service agencies in the state.

UCPA questions the Rehabilitation Services Administration's commitment to due process procedures for clients. This is a state plan requirement. And yet, in the six states surveyed by UCPA, only one has developed a client grievance system. It would seem that RSA has not adequately monitored and reviewed state plan implementation activities.

o Service Linkages

If the full range of service needs of persons with severe disabilities are to be adequately addressed, the state agencies of Vocational Rehabilitation, Vocational Education, Special Education, State Employment Service, and Developmental Disabilities must communicate and must develop a continuum where the individual is referred in a logical progression from one of these state agencies to the other.

Michigan is a good model to examine. Our UCPA affiliate reports the state agency to be very sensitive to the needs of the severely disabled. Following enactment of the Rehabilitation Act of 1973, Michigan Department of Vocational Rehabilitation, cooperately with UCPA of Michigan, reopened a number of cases which had previously been closed because of severity of disability. By Public Act 198 of 1971, Michigan state law requires cooperative agreements between the Departments of Vocational Rehabilitation, Vocational Education, and Special Education. DVR counsellors are assigned to special education and vocational education classrooms. The experience has proved very beneficial to a number of disabled individuals.

Pennsylvania is probably a state more typical of the norm. For years, the Department of Vocational Rehabilitation has had a cooperative agreement with the Bureau of Employment Security. Just eight to nine months ago did DVR and the Department of Education begin negotiating. Unfortunately, they have not yet been successful. Concern over sharing of funds seems to be a prime impediment to developing such cooperation.

UCPA encourages this subcommittee to address this issue to RSA. We anticipate RSA's answer. RSA will say they have guidelines encouraging multi-state agency cooperation and this is all they can do. RSA will not say they feel obligated to initiate a leadership role at the federal and regional levels to assist state agencies in fostering such cooperative efforts.

o Training of Counsellors

Dr. Donald E. Galvin, Director, Michigan Vocational Rehabilitation Services, prepared an excellent paper in 1974 entitled "Working Paper on Methods To Expand and Improve Services To the Severely Handicapped." Dr. Galvin concluded, "I feel the need to restate here the observation that many counsellors are not prepared, by academic training, work experience, or personal interest, to serve the severely handicapped." Dr. Galvin outlined a series of strategies which could be used to better train counsellors to serve the severely disabled. But many states are not as thoughtful nor as innovative as Michigan.

Illinois DVR contracted with UCP of Illinois to operate a two day orientation session for 300 counsellors in the state regarding services to individuals severely disabled by cerebral palsy. But when funding became tight, Illinois DVR dropped all plans to reachout and serve the severely disabled. Illinois is not only not serving the severely disabled, they are drastically curtailing services to all disabled persons.

A substantial portion of Pennsylvania's Department of Vocational Rehabilitation's budget is allocated to training counsellors. They have linked up with both West Virginia University and Temple University in developing some very interesting training programs. An elaborate video-tape program has been developed and has great potential for future use. However, no training efforts have been undertaken with counsellors in the developmental disabilities area.

Again, UCPA returns to RSA with the question: How has RSA utilized its resources in developing training programs to encourage rehabilitation professionals to better serve the severely disabled? And, what role does RSA see the voluntary sector playing in developing training programs to encourage rehabilitation professionals to better serve the severely disabled?

o Legislative Action

United Cerebral Palsy Associations, Inc. firmly believes that if initiatives are launched in the areas of client due process and grievance systems, state services agency linkages, and training of rehabilitation counsellors, the rehabilitation system will become much more responsive to the needs of persons with severe disabilities. UCPA encourages this subcommittee, in its report developed from these hearings, to direct RSA to allocate greater resources and focus greater attention to the needs of the severely disabled in those three areas.

CONCLUSION

United Cerebral Palsy Associations, Inc. understands that the traditional vocational rehabilitation system will not serve the habilitation needs of the severely disabled for some time to come. But we firmly believe that the VR system can be much more responsive to the severely disabled than it has to date. Our statement has identified five specific areas in which we believe the system can respond to the needs of those persons with severe disabilities.

Senator RANDOLPH. Our next witness is Mr. McAllister.

Please introduce yourself and the gentleman accompanying you.

And also, as I said, you might speak about your organization, what it does, and whom it represents.

STATEMENT OF JACK McALLISTER, ON BEHALF OF THE EPILEPSY FOUNDATION OF AMERICA, STAFF VICE PRESIDENT, WASHINGTON, D.C., ACCOMPANIED BY DR. LEONARD G. PERLMAN, EPILEPSY FOUNDATION OF AMERICA

Mr. McALLISTER. Thank you, Mr. Chairman and Senator Schweiker.

My name is Jack McAllister, and I am staff vice president for the Epilepsy Foundation of America.

Accompanying me this morning is Dr. Leonard Perlman, associate executive director for program development, governmental liaison, research and training, and who incidentally was a former Pennsylvanian before coming to us at the Epilepsy Foundation of America.

Our testimony is rather brief.

We are extremely pleased to have this opportunity to both reaffirm our support for the intent of the Vocational Rehabilitation Act and to provide our views and some recommendations which we hope will further strengthen the State-Federal programs of service to our Nation's handicapped citizens.

As the major advocate and spokesman for the estimated 4 million Americans with some form of epilepsy, the foundation is particularly interested in the implementation of the Vocational Rehabilitation Act of 1973, and its amendments, as it affects those with seizure disorders.

Some 14 years ago, the late Mary Switzer, then Director of the Federal Office of Vocational Rehabilitation, wrote the following preface to a text book entitled: "Total Rehabilitation of Epileptics: Gateway to Employment."

> There is no greater challenge to the rehabilitation worker than that of breaking the barrier of ignorance, misunderstanding, and discrimination which has isolated the epileptic for generation after generation.

Regrettably, we must report that the challenge stated by Miss Switzer in 1962 remains with us 14 years later, during this Bicentennial year. In fact, the number of persons with a primary disability of epilepsy which were rehabilitated by the State-Federal programs has declined from 1962 when 2.2 percent of the total rehabilitated were persons with epilepsy. In 1971, only 4,066 persons, or 1.5 percent of the total rehabilitated, were persons with epilepsy.

However, the RSA annual report published in March 1975, has indicated that a slow, but positive upward trend has been noted.

In 1973, 1.6 percent of the total persons rehabilitated had epilepsy and in 1974 the figure had increased to 1.7 percent of all rehabilitations—361,138 was the total rehabilitated for all disability categories.

While the trend is obviously a step in the right direction, and may reflect the emphasis on the severely handicapped—of which epilepsy has been so designated by Public Law 93–112 and Public Law 93–516—the positive change is still too slow, especially for those clients with epilepsy who were terminated prior to their being rehabilitated and who, in many cases, must continue to rely on welfare benefits.

The problems of epilepsy were well stated by Jess M. Irwin, Jr., head of the Texas Rehabilitation Commission—in our publication, National Spokesman, September 1974—in the following:

> Three years ago, we recognized that a major disability group not being effectively served was the epileptic. Moreover, although all with epilepsy are not severely handicapped, the vast majority served by State VR agencies are. This is because of the archaic yet very real social stigma still associated with the disorder. Due to this stigma and non-acceptance by society, the overwhelming majority of epileptics keep their disorder hidden as much as possible. Consequently, those referred to VR agencies are generally those with poor seizure control so they cannot keep their disorder hidden. Our experience has shown that they are multihandicapped.

Several other islands of progress are noteworthy, in addition to Texas.

The Massachusetts Rehabilitation Committee has instituted special training and emphasis in epilepsy and served over 885 clients in 1973.

South Carolina has initiated a special program to better serve the person with epilepsy.

Florida has taken steps to improve services to this often neglected client by special training seminars for vocational rehabilitation personnel. In addition, specialized epilepsy counselors have been designated in all service regions.

Montana has initiated an outreach project to both find and serve these clients more effectively.

While the States mentioned above are making impressive inroads in rahabilitation for persons with epilepsy, progress is slow or nonexistent in a majority of States.

MAJOR CONCERNS

With the initiation of more programs to serve the person with epilepsy, we feel that there is a need to strengthen section 1361.31 of the rules and regulations as published on November 25, 1975, in the Federal Register. This section, under "State Plan Content," sets forth the provision of services and specifically the order of selection for services.

Parts (a), (b), and (d) need clarification, especially with reference to establishing which categories of clients will be served "when rehabilitation services cannot be provided to all persons who apply and have been deemed eligible."

The tone of the section seems extremely worrisome, especially for the person with epilepsy who has seen available services go to other "priority disabilities" throughout the years.

We would recommend specific guidelines within the regulation which would specify priority categories to be served within the order of selection of services similar to the categories specified under section 1362.40(2) (of the regulations).

Any such listing should include as a priority the developmental disabilities, such as mental retardation, cerebral palsy, and epilepsy, with continued special emphasis on the severely disabled.

Therefore, we urge a special review of section 1361.31 of the rules, to provide more specific direction to States regarding order of selection of services to priority disability groups.

Another area of concern involves the final issuance of administrative rules and regulations pertaining to the implementation of sections 503 and 504 of the Rehabilitation Act of 1973.

Our latest record is that the rules and regulations are 3 to 6 weeks away from this point. We feel that the implementation schedule should have a specific timetable.

We also recommend that voluntary agencies who are in touch with thousands of constituents affected by the various disabilities be consulted. The Epilepsy Foundation of America is willing to assist in every appropriate way to expedite the implementation of these sections.

One area to which the Foundation is deeply committed is the need for rehabilitation counselors to have the most current medical and social information about the epilepsies in order to assist the counselor to work more effectively with the client.

It would be important to know if the RSA training resources through the university training programs, the research and training centers, and the newly designated continuing rehabilitation education centers are disseminating information that will help counselors to do a better job with those classified as severely handicapped.

A corollary question would be what programs or plans are there for innovative training programs specifically geared to job placement for those in the hard-to-place categories including epilepsy.

The foundation, with the help of an RSA grant, has developed a text on epilepsy rehabilitation as well as other training materials. We are anxious to work more closely with State VR agencies and the various university programs in rehabilitation in order to provide them with the best available information.

IN SUMMARY

The Epilepsy Foundation of America is deeply committed to a viable State-Federal program of vocational rehabilitation which serves the severely handicapped, including the disabilities which have a high degree of stigma attached, such as epilepsy.

The foundation and its chapters throughout the United States pledges assistance in every appropriate way to make this State-Federal partnership work most effectively to meet the needs of our clients.

I might say in conclusion that we operate a correspondence room at the Epilepsy Foundation of America, and we receive and answer thousands of inquiries each year from persons who have problems with epilepsy.

The number one problem cited by people who write to us is employment, and the need for training and rehabilitation to find employment.

The number two problem is transportation, as was pointed out in the previous testimony.

Some of the people who have employment problems are perfectly capable of holding jobs and have been holding jobs, but have lost their jobs because of seizure disorders occurring on the job.

We are in particular need of section 503 and section 504 to eliminate and avoid discrimination against these persons. Others expressing employment problems are people who have severe seizure disorders, and do not have employment or marketable job skills, and who require the services of vocational rehabilitation.

Thank you for the opportunity to testify today.

Senator SCHWEIKER. First let me say we do have a series of about 200 questions going to the Secretary of HEW, Dr. Mathews. We have not received answers to these. We are going to withhold some of the questions we might normally have at this time that are directly relevant to your testimony.

On the other hand, there are a couple of areas, nevertheless, that I would like to just touch on now.

The matters that you are talking about are a matter of regulation that can be rectified by clarification of the law itself; is that what you are telling us?

Mr. MCALLISTER. That is true. It can be done with the law or by regulations.

Senator SCHWEIKER. Were they caused because the law was vague and regulations vaguer, or were there omissions in the law itself?

Mr. MCALLISTER. I think the law is vague in this respect and would need further clarification through regulations, particularly with regard to the order of priority of persons to be served in the event funds would not go far enough.

Traditionally, persons with epilepsy have been shied away from by rehabilitation agencies and tend to be washed out of the mainstream if funds are limited; therefore we feel that some special emphasis or recognition should be given to helping the developmentally disabled, including not only persons with epilepsy, but the other severe handicaps spoken of today.

Senator SCHWEIKER. I know I speak for the chairman on this point, that we certainly will take a hard look at the very points you made here. I think it is our intent not to sidetrack or by omission or oversight to make the job of the epileptic any harder than it is.

We will certainly do everything we can to structure any changes in a way that will also clarify the regulations.

We very much appreciate your testimony. We get your point. We will take it into account.

Thank you for coming.

The next witnesses will be from the Council of State Administrators of Vocational Rehabilitation, Adrian Levy, E. Russell Baxter, Donald E. Galvin, Harvey C. Hirschi, Robert L. Pogorelc, and C. Owen Pellard.

Please proceed.

STATEMENT OF ADRIAN LEVY, ASSOCIATE COMMISSIONER, OFFICE OF VOCATIONAL REHABILITATION, STATE EDUCATION DEPARTMENT, ALBANY, N.Y.; E. RUSSELL BAXTER, COMMISSIONER OF REHABILITATION SERVICES, DEPARTMENT OF SOCIAL AND REHABILITATIVE SERVICES, LITTLE ROCK, ARK.; DONALD E. GALVIN, PH. D., DIRECTOR OF VOCATIONAL REHABILITATION SERVICES, STATE DEPARTMENT OF EDUCATION, LANSING, MICH.; HARVEY C. HIRSCHI, ED. D., ADMINISTRATOR OF DIVISION OF REHABILITATION SERVICES, STATE BOARD OF EDUCATION, SALT LAKE CITY, UTAH; ROBERT L. POGORELC, ADMINISTRATOR, STATE COMMISSION FOR THE BLIND, PORTLAND, OREG.; AND C. OWEN POLLARD, DIRECTOR, BUREAU OF REHABILITATION SERVICES, DEPARTMENT OF HEALTH AND WELFARE, AUGUSTA, MAINE, A PANEL

Mr. LEVY. Thank you, Senator.

On my far left is Mr. Robert Pogorelc, administrator, State Commission for the Blind, Portland, Oreg.; next to him is Donald E. Galvin, director, Vocational Rehabilitation Services, Lansing, Mich.; next is E. Russell Baxter, commissioner of rehabilitation services, Department of Social and Rehabilitative Services, Little Rock, Ark.; next is Harvey C. Hirschi, administrator, Division of Rehabilitation Services, Salt Lake City, Utah; and C. Owen Pollard, director, Bureau of Rehabilitation Services, Augusta, Maine.

We appreciate very much the opportunity to appear before this subcommittee again. As in the past, the subcommittee has been most helpful and most concerned with the needs of the handicapped.

We appreciate the opportunity to present our material to you.

I am not going to take the time to read through the written material that has been placed in the hands of the committee.

I feel, however, that I ought to make a couple of comments.

Senator SCHWEIKER. We will include your full statement in the record.

Mr. LEVY. Thank you, sir.

Prior to any questions that may be asked, I think it should be noted that the reason for having six State directors here today is to indicate what we consider to be the real strength of the State-Federal vocational rehabilitation program. Obviously, each State is of a different size, and there are numerous governmental structural arrangements. This panel represents a great diversity; and yet, the State-Federal program, we believe, gains strength and unity of purpose from this diversity.

The subcommittee has before it representatives of large State agencies and small State agencies; representatives of general agencies for all disabled persons; representatives of agencies for all disability groups except the blind; and a representative from an agency specializing in services for the blind.

It is very difficult for an organization which represents so many different agencies to say that we speak with a single voice on every detail. But essentially we represent, and the statement that you have before you represents, a consensus of opinion, from across the country, and from those of us who are here.

I would like to take a few minutes to repeat some of the earlier testimony given this morning, because it is important to highlight one or two items.

The purpose of this hearing, as we see it, is to identify what is being done and what some of the problems are in vocational rehabilitation.

I am going to mention one or two problems which we believe merits your direct attention. As I have said, this has already been brought to your attention in earlier testimony; but I would like to give the State agencies' point of view.

Mr. LEVY. If I may, I am going to read certain parts of our written statement. It will not be too long.

The first problem is that of priority of service, which has been previously mentioned. In light of the mandate that the "order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps," we need to know what is the intent of the Congress as to how clients should be served in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply.

At present, State rehabilitation agencies are charged with serving first the eligible severely handicapped. At the same time, they are mandated not to "discontinue or refuse services to any handicapped individual because of the type of disability the person has."

We welcome the reemphasis which the law has placed on providing vocational rehabilitation services to the physically and mentally disabled. We feel that the Congress has brought the program into focus by stressing the basic purpose of vocational rehabilitation; that is, serving those physically and mentally handicapped individuals who might be vocationally rehabilitated.

We strongly endorse this priority; there are, however, various critical problems inherent in this priority statement. We recognize, and I think the rehabilitation community as a whole recognizes, the responsibility to provide services to eligible severely handicapped persons. But it is not possible under current funding levels to give priority attention to the severely handicapped, and at the same time not "discontinue or refuse services to any handicapped individual because of the type of disability the person has."

To date, the results of the mandate have been that State agencies have reduced the level of funding for service to the eligible nonseverely disabled, and have concentrated on serving the severely handicapped. In some instances this is a fair change and, of course, it is to be accomplished over a matter of time, but what has been done so far has resulted in fewer persons being served, and therefore, fewer disabled persons being rehabilitated. This trend is expected to continue indefinitely into the future unless there are significant increases in the level of funding.

State-operated rehabilitation programs are likewise faced with the ever-spiraling costs resulting from the current national economic situation. Inflationary pressures, coupled with the need to serve the more costly, severely handicapped category, have drastically reduced basic service funds, and have in many cases, caused extensive curtailment of established program activities.

In the statement submitted to you, we have attached a chart which shows that the real dollar value of appropriations has decreased, despite the fact that the amount appropriated has increased.

As the economic situation began to worsen, the States were mandated to give priority of service to the most expensive and time-consuming category of persons, the severely handicapped. At the same time, they were expected not to discontinue or to refuse services to any handicapped individual because of the type of disability the person has.

It quickly became apparent in this unstable economy that the program was facing a very serious and growing problem: where are the eligible non-severely handicapped to go for services when the State vocational rehabilitation unit lacks the resources to meet their rehabilitation needs? This is of great concern to all State Directors in the country.

The priority of rehabilitating first the severely handicapped places additional burdens upon the agencies besides the increased cost of service delivery. Professional staff have had to be retrained, the health services community has had to be educated as to the new emphasis and has had to accept and treat more costly cases, and referral sources have had to be apprised of the shift in emphasis and have had to establish new criteria for the selection of referrals. Service providers, aside from those in the health areas, have had to be made aware of the new expectations, and must now determine what investment evaluations need to be made before they can deliver services to the severely disabled. And, potential employers of the handicapped have requested guidance in the selection criteria, and in the physical modifications necessary to hire the severely handicapped.

Another prevalent problem in serving the severely handicapped is that of developing new facilities and modifying existing ones. There are enormous costs in this area. Coupled with this lack of facilities is the nationwide shortage of health service personnel, and the almost astronomical cost escalation of health goods and services.

State agencies simply cannot function in this competitive economic climate without adequate and stable funding that will allow for long-range planning and development. The lack of adequate knowledge and technology to handle all the ramifications involved in serving the severely handicapped has created an enormous need for research and demonstration projects. We have the technical expertise to serve the severely handicapped, but we do not have the financial resources to take care of the many problems associated with this group.

One of the persons presenting testimony this morning indicated that perhaps there were other ways of obtaining funding, such as through the new education for the handicapped law. I think the subcommittee is aware of the fact that the Council strongly supported this legislation, and feels that the new law is a very progressive step forward in assuring further educational services to the handicapped.

However, I would say that the comments which I heard this morning assume that it is going to solve all of the problems, or that they are already solved, and that it is no longer necessary for vocational rehabilitation agencies to provide any services to school-age individuals. I would like to point out that while the goals, intent, and development of the concepts of the programs within S. 6 may eventually have that effect, we still will have a long way to go.

I might also point out that within my own State of New York, to the best of my knowledge within a point or two, the amount of help that will come from S. 6, and the amount of dollars, will constitute approximately 3 percent of all of the funds that will be expended for education of the handicapped in our State.

So we still have a long way to go, and we do try to work, together. This has been ingrained within the vocational rehabilitation movement.

For example, 2 weeks from today, within my own State there will be a meeting of the assistant commissioner for education of the handicapped, myself, and the associate commissioner of the Department of Mental Hygiene, who has just created a new office for Social Rehabilitation, to determine how we, as a group, can best meet the needs of the mentally ill and developmentally disabled within the Department of Mental Hygiene's program. This is the type of cooperation that we have had in the past under the Rehabilitation Act. Similar action would do much toward helping us to accomplish this in the future.

The only other problem that I will mention at this time has already been referred to this morning, and that is the definition of the severely handicapped. This has created many problems for us, because in many respects there is an interchangeability in discussions about this definition. Sometimes it is called severely handicapped, sometimes severely disabled, and we are all aware of the fact that there is frequently a major difference between the severity of the disability and the severity of the handicap.

Reference has been made this morning to the fact that it is possible to have a multihandicapped individual with several minor handicaps and minor disabilities who might be considered severely handicapped. The crucial factor here is that it is a judgmental activity to determine whether an individual is severely handicapped—to determine the level, the scope of the handicap, and the effect that the impairments do have on the ability and capability of the individual.

The current definition, which is being used and which is based in part upon the nature of the disability, has served its purpose during a transitional period.

We are also aware of the fact that there is a study under RSA auspices to help further redefine the term "severely handicapped." We are cooperating with this, and we do hope that we can come up with a more effective definition which will help to identify much more efficiently and effectively who is severely handicapped. We hope this will receive a serious consideration from your subcommittee.

We see these two facets as major problems in terms of the continued operation of the program, and in meeting the mandates of the Congress. Obviously, they are closely related. In order to establish a priority we need an effective definition so that we can identify the priority group. The whole question of how to adhere to a mandate to give priority to one group and not to discontinue serving the other disabled individuals who need vocational rehabilitation is a very serious one in light of our current economic situation. While we have no easy solution other than to say, "give us a lot more money," which we know is not easy to do, we do know that you will give this your deep consideration, and we offer whatever help we can for assisting in these matters. We also appreciate your permitting us to bring these factors to your attention.

Now, Mr. Chairman, if there are any questions or comments that you have, the panel would be very glad to answer, if we can.

Thank you, sir.

Senator **RANDOLPH**. Commissioner Levy, we are appreciative of your addressing the subject matter that you do today.

Mr. **LEVY**. Yes.

Senator **RANDOLPH**. You say it is not easy, and we recognize that. It is my hope that these hearings will provide some solutions to these problems. Do your colleagues have statements, or does your testimony cover everything?

Mr. **LEVY**. This covers it, Senator. The other members of the panel are here so that we have a diversity of views and strength in the event that you have any additional questions which you want to ask at this time.

Unless you would like to ask anybody to make a statement we have not asked each panel member to prepare an individual statement, because we recognize the time factors and the pressures upon this subcommittee.

Senator **RANDOLPH**. Mr. Baxter, of Little Rock, you generally subscribe to what is being said, is that correct?

Mr. **BAXTER**. Very definitely, Senator.

Senator **RANDOLPH**. Yes. The problems are the same even though you come from different States, are they?

Mr. **BAXTER**. That is right. We have exactly the same dilemma that Mr. Levy has so ably expressed, particularly with respect to the first priority, and at the same time, not reducing services to those that are not severely handicapped.

Senator **RANDOLPH**. Thank you very much.

And, Dr. Galvin, from Michigan——

Mr. **GALVIN**. Yes.

Senator **RANDOLPH**. Do you care to add to that?

Mr. **GALVIN**. I would support what has been said before. Our experience has been that other agencies might be available to serve the less severely handicapped, such as manpower training programs, but they are not eager to assume what they see as our responsibility.

Senator **RANDOLPH**. Thank you very much.

Dr. Hirschi?

Mr. **HIRSCHI**. Thank you, Senator.

I would fully subscribe to that which Commissioner Levy has mentioned. In my experience in the State of Utah, being one of the smaller States, we come up against the same problems.

I am strongly aware of two points which stand out like two great modalities in this delivery of services to the clients, and that is the client-counselor relationship and the client tailored services. The mandate which has been given to us by the Congress that services be delivered on a priority basis conflicts with the idea, that we do not want to turn clients away, even though the priority of service is to the more severely handicapped.

In our State all the agencies have looked to us for vocational rehabilitation. These agencies hope that we can continue with our emphasis on the severely handicapped and somehow be able to meet the needs of the less severely handicapped.

Senator RANDOLPH. Thank you very much.

Mr. Pogorelc—am I pronouncing it correctly?

Mr. POGORELC. Very good, Senator. Thank you.

Senator RANDOLPH. Do you have any comments?

Mr. POGORELC. I represent the programs for the blind among the State directors, and under the present definition blind persons are considered to be severely handicapped. However, as a member of the council of State administrators, I support their position, and I understand the problems of those who do not have such a simple answer. Everybody tries to serve the higher needs, but this has become very difficult with the emphasis on the severely disabled, plus the continued requirements for serving the less severely disabled with a constant amount of money. It is a very severe problem.

Senator RANDOLPH. Yes. If I may digress, I remember the testimony during the 1936 hearings on the legislation which became the Randolph-Sheppard Act. Witnesses from the Post Office Department said that blind persons could not be entrepreneurs.

As I said to the Assistant Postmaster General, "Do you not feel that you are shortchanging a great segment of the population who—through training—can adapt to this type of effort?" We enacted the law; and it value has been in the success of the blind themselves.

You see, they have proved they can do it. We gave them the opportunity to prove it and they have done it.

Mr. POGORELC. Exactly.

Senator RANDOLPH. I want the record to show how important it is that we do not lose our faith in the ability of severely handicapped people to produce.

Mr. Pollard?

Mr. POLLARD. Mr. Levy's remarks certainly adequately expressed the problems faced by the rehabilitation program in Maine, and so do you, Senator.

Senator RANDOLPH. Thank you. Thank you.

Well, you come from Maine and Oregon and Utah and Michigan and Arkansas and New York—just add West Virginia, and everything will be all right, but we will have testimony from West Virginia at a later time in our hearings.

I think that I would want to mention that Joe Owens, who used to be here on the Hill with Senator Byrd, and is serving you, has been very helpful to the membership and to the staff. He has arranged for meetings, he has worked diligently with us, and for that we are appreciative.

Mr. LEVY. Senator, we also want to thank the State of West Virginia for releasing him to us.

Senator RANDOLPH. That is all right. You have got to go into other fields which are rich for harvest.

We may as I have indicated before, have questions that we will ask in writing based upon your testimony, Mr. Levy.

Mr. LEVY. Certainly, sir.

Senator RANDOLPH. This afternoon we will resume in this same room at 2 o'clock. Thank you all, and have a pleasant lunch.

[Whereupon, at 11:40 a.m., the subcommittee recessed, to reconvene at 2:00 p.m., the same day.]

AFTERNOON SESSION

Senator RANDOLPH. Glenn Mathews, please.

Glenn, we are going to ask you to identify yourself and the organization for whom you testify in the hearing this afternoon.

Are you a West Virginian?

STATEMENT OF GLENN MATHEWS, CHIEF OF SERVICES TO THE DEAF AND HEARING IMPAIRED, WEST VIRGINIA DIVISION OF VOCATIONAL REHABILITATION

Mr. MATHEWS. Yes, sir, I am, three times over.

Senator RANDOLPH. Three times over?

Mr. MATHEWS. Three times over: born there, moved away and moved back on two different occasions.

Senator RANDOLPH. Well, I see many bumper stickers in West Virginia now; it says, "We Came Back." Those are being used by a good many people who had been in the automotive field in Detroit and in other cities. I think they're coming back not so much because there isn't employment over there, but I think they really want to come back to a more rural section of the country.

Mr. MATHEWS. While it isn't heaven, it's almost heaven.

Senator RANDOLPH. Yes.

Now, identify yourself.

Mr. MATHEWS. Yes.

I'm Glenn Mathews. My position is with the West Virginia Division of Vocational Rehabilitation. My title is Chief of Services to the Deaf and the Hearing Impaired.

I am here to represent the Professional Rehabilitation Workers With the Adult Deaf (PRWAD).

Senator RANDOLPH. How many are there in West Virginia working with you in this effort?

Mr. MATHEWS. In vocational rehabilitation I supervise a staff of nine field counselors for the deaf, one center counselor at the West Virginia Rehab Center plus two teachers for the deaf, all of whom work full time with the deaf or hard of hearing people.

Senator RANDOLPH. This question may seem rather general, but do you know how many deaf persons there are who can be helped through vocational rehabilitation?

Mr. MATHEWS. Are you speaking State or national?

Senator RANDOLPH. State.

Mr. MATHEWS. Within West Virginia we estimate 3,600 people who became deaf prior to the 18th birthday, or what we call prevocational deafness. If we combine that number with people of lesser hearing impairments but to some degree of hearing impairments, the number will jump upwards to 13,000 with some degree of hearing loss, and it would have to be off the top of the hat, but I would say at least 85, 90 percent of those could benefit from some type of services, and the West Virginia Division of Vocational Rehabilitation is taking the lead among State agencies in providing those services to those people as attested by the fact of our nine counselors in the field programs, plus the staff at the rehab center.

Senator RANDOLPH. Do you have any knowledge of the State of Vermont for Senator Stafford on this matter?

Mr. Mathews. No, sir; I am afraid I do not.

Senator Randolph. What is the nationwide picture?

Mr. Mathews. I can give you that as a part of my total testimony, if you would like.

Senator Randolph. Certainly.

I was not attempting to stop your testimony. I realize these are rather general questions.

Mr. Mathews. Right. To answer that, if I could, from a survey that was a national census of the deaf, the first one that was done in 40 years was completed and published in 1974, and it found 1.8 million people who became deaf in this country prior to age 18, which is about twice what we had normally estimated before this census was conducted.

Senator Randolph. What would cause the increase in a rather marked spiral?

Mr. Mathews. There is a tremendous amount of causes, one of them in the medical area where there have been advances medically. There are a lot of children that are surviving now with multiple disabilities that before the medical advances in the last 30 or 40 years would have died before their first birthday, and now many of these are alive and are multiple-handicapped. I think that is just one of the causes, plus the rubella epidemic that seemed to hit this country in about a 10-year cycle.

In addition to that, I think there is a lot of deafness that is caused because of the noise pollution that we face just as a part of this society, and the numbers are increasing.

Senator Randolph. We have worked in the Public Works Committee, as Senator Stafford knows, with the problem of noise pollution; we have worked on air pollution, water pollution, and solid waste problems as well.

As the Senator from Vermont knows, we haven't gone extensively into noise pollution, but it has been a part of our addressing this broader pollution problem.

Do you have any comment on that, Senator Stafford?

Senator Stafford. No, Mr. Chairman. I generally agree with what you have said. I always enjoy working with you on this subcommittee which I consider one of the most important that I serve on.

Senator Randolph. Glenn, I will ask at this point that you not read your entire statement, but submit it for the record and highlight those points you wish to stress.

Mr. Mathews. OK.

What I should like to do is to collate some of the things that are presented in our written testimony, which will be submitted.

I am here today representing the Professional Rehabilitation Workers With the Adult Deaf, which was founded in May of 1966 as an outgrowth of an evident need among professionals to increase services to deaf and hearing impaired individuals.

Among the goals that we have as an organization are such things as promoting the development and expansion of professional rehabilitation services for the adult deaf.

Secondly, providing a forum and common meeting ground so that the organization may be instrumental in bringing about a better understanding of deaf people.

Third, promoting and encouraging scientific research of the needs and problems engendered by deafness.

Fourth, to promote and develop the recruitment and training of professional workers with the adult deaf. There are a whole list of these which are available to you.

Our membership is composed of professionals working in the field of vocational rehabilitation in such capacities as schools and rehabilitation counselors, State coordinators of the deaf, State directors of the agencies, interpreters, social workers, teachers, and so forth.

To summarize the aims of PRWAD, we say that we strive for the improvement of services to the deaf in the area of vocational rehabilitation in whatever ways we can increase and improve those services.

We are cognizant of the Nation's history of providing services to its handicapped citizens, and the National Census of the Deaf, to which we have already referred, points out the fact that 13.4 million of our population have some degree of hearing impairment, and of this number, 1.8 million are deaf in the definition that they cannot hear or understand speech. And yet of this 1.8 million, more than 7,500 deaf persons are being rehabilitated annually, and this is the very crux of our basic concern. For even with the legislation that has been designed to provide adequate vocational rehabilitation services, deaf people continue to be underserved and, unfortunately, they continue to be underemployed, for the world of deafness requires training and education that is above and beyond that which is available to the average deaf person.

The problems of underservice and underemployment is being compounded by the changes in technology in the world labor market and is going to result in the future in many more of deaf people being totally unemployed.

In a study by Dr. Vernon and Dr. Mindel, a psychologist and psychiatrist, respectively, they mention some trends that are likely to occur that affect the future of deaf persons, and among those five were these: (1) the shift from annual and semiskilled and unskilled jobs to many more white-collar jobs, and of the 22,000 jobs listed, or types of jobs listed in 1965, over 6,000 of these are now—6,000 are new since 1959; over 8,000 that existed in 1959 are now extinct. Coupled with these two facts is the third one that the educational requirements for employment at any level are rapidly increasing, and most of these jobs that are in the future for us are beyond the scope of the average deaf individual.

If this severe lack of services continues at its present pace, we really wonder how the Federal Government will react to the even greater needs of deaf people as they face the increasing technological requirements in the world of work.

Very central to our concern is the matter of the Office of Deafness and Communicative Disorders. The ODCD, as it is called, the Office of Deafness and Communicative Disorders, is a small seriously understaffed office, and they have for years, as their abilities permitted, been quite responsive to the needs of deaf people and yet they are not at a decisionmaking level within RSA. They have little influence at that policymaking level; they have no budget with which to carry out programs, nor do they have a legislative base to insure that no matter what administrative changes are made, the needs of the Nation's deaf people will be adequately served.

To put it bluntly, they seem to function at the will and the whim of whoever happens to be in the head chair of RSA, and even though their responsibilities have grown over the years, they have fewer professional people, fewer professional staff positions than a few years ago.

For example, they have no interpreter. Although the two professionals assigned to that office are both themselves deaf, they have no full-time interpreter position; they have no voice in that policymaking body. They need to have it.

The PRWAD is pleased to see that recently RSA has elevated the Office of Blind and Visually Handicapped to the Assistant Commissioner's level. The functions of the Office of Deafness and Communicative Disorders, as outlined in the Federal Register, are identical to those of the Office of Blind and Visually Impaired. It would seem plausible for this subcommittee then to recommend that Congress enact similar legislation to provide equal status for the Office of Deafness and Communicative Disorders. They need additional staff in carrying out their responsibilities and they need somebody within the Secretary's office of Planning and Policy Development who will represent the area of deafness.

Beyond the ODCD, there is a model for a State plan or vocational plan for deaf clients, and I hold a copy of that in my hand; and I think the committee has a copy of it. If you do not have it, there are copies available, and this model for a State plan of vocational rehab services for deaf clients was prepared in November of 1973, outlining with clarity, in detail, ways of implementing a model plan at the State level for VR agencies; and unfortunately, very little has gone in the way of implementing this State plan.

Although some States have made great progress in implementing it, others have made little, if any, and what seems to be lacking is a commitment on the part of RSA to see that the model State plan is implemented.

These people for whom I am speaking, or the organization that I represent, deals with people who are severely handicapped and in need of rehab services, and the model State plan, if implemented, could go a long way toward meeting those needs; but there has been no real commitment on the part of RSA to the implementation of it, and thus we would urge that the committee look into the reasons for the delay in implementation of the model State plan.

A third area of concern is the implementation of the State-Federal programs. This shortage of staff in the Office of Deafness and Communicative Disorders within RSA is deplorable within itself, but it is nothing when compared to the fact that in the regional offices there needs to be a person with full-time policy and decisionmaking powers with experience with training in the area of deafness. There are no such positions now. Although they have been promised they have not been brought into existence either in writing or in reality, but within the regions there needs to be one person with full-time responsibility in serving the deaf and hearing-impaired citizens of that region.

There has been no indication that these people would, if ever appointed, receive training to increase their expertise in this area.

Beyond these there are other concerns that I want to share with you, and two of these deal with facilities. In addition to the "average deaf client," there are a multitude of clients who have other disabilities such as deafness accompanied by mental retardation or by emotional disturbance or by cerebral palsy or by visual problems, and these people are often complicated further by serious language deficiencies, a lack of independent living skills, the alienation from their families, inadequate or no work experience, and the estimates are that this population would run as high as 100,000, and yet there are no facilities, long-term comprehensive facilities, that are specifically designed or staffed or funded to serve this group.

There are some grants-supported projects designed to serve these people, but they are funded for only 3 years. It makes it difficult to attract staff, to plan for long-term comprehensive needs; and even with these programs, we are still serving only a fraction of those in need of assistance.

What is needed then if the intent of Congress is to serve severely handicapped deaf people is to be realized, is to establish or to make long-term funding commitments to existing programs; and secondly the establishment of a national center for the severely handicapped deaf youth and adults patterned somewhat after the National Center for Deaf-Blind Youth and Adults.

There is evidence, clear evidence to support the establishment of at least 10 of these, one in each region, but even one would be a most beautiful beginning.

A second type of facility that is terrifically lacking and in great need is the mental health facilities that ought to be available to those people. This matter is very close to my heart now, as we are in the process of establishing a program for the mentally ill deaf in West Virginia; and there are some research and demonstration projects that are sponsored by RSA, for example, in New York, California, Illinois, and the District of Columbia. There are four such programs, and they have proved conclusively that mental health services can be provided to deaf people in an efficient and economical manner, and yet these four are the only programs that are existing.

For example, in our State, if we wish to have comprehensive services for a mentally ill deaf person we have to persuade the personnel at the staff at St. Elizabeth's Hospital here at Washington, D.C., to take our West Virginian who is in need of services, and there are literally thousands of deaf people in mental hospitals throughout this country that continue to be misdiagnosed, mismanaged, and unserved or get nothing but custodial care because the staffs of those facilities are lacking in the skills necessary to serve them. And to correct this we would go on record as strongly endorsing the recommendation that was made by the National Association of the Deaf that there be established in each of the RSA regions at least one in-patient center for the deaf-mentally ill.

One final area that I want to touch on is that of the twin areas of research and training.

In the 1960's, research dollars flowed into deafness as they had never been before. But since 1973 there has been no new RSA-supported research effort initiated in the area of deafness at all, and the research and training center identified as RT-17 in New York is the only one of its kind in the country, and yet of the 19 RSA-supported R. & T. centers, it ranked 17th in terms of funding. In fact, its basic grant of $250,000 has not been changed since it was established in 1967, and the inflation factor alone will indicate the seriousness of the situation.

In fact, if we were forced to describe in one word the research efforts in deafness since 1973 it would be simply "tokenism," and what is needed then is a stronger commitment, both moral and financial, in finding answers to the problems facing us.

Along with the research needs there are accompanying needs in the area of training.

For example, those few training programs in the country who are training counselors for the deaf are unable to meet the demand for trained counselors. Adding to that, there is the situation that there is no training facility to train such people, particularly with deafness, such people as psychologists, social workers, vocational evaluators, counselor aides, and placement specialists. I think one approach which has not been tried which would prove, I think, to be cost effective would have all rehabilitation counselor training programs throughout the country, and these are general rehab counselor training programs, have all of them include at least one course on deafness in their curriculum. This would not be a panacea, but it would give some general understanding of the problems of deafness.

These are the items that I wanted to cover today and the full treatment of them is covered in the testimony that will be submitted to you.

Speaking for the Professional Rehabilitation Workers with the adult deaf, I want to express my appreciation for the opportunity to appear before you today to present our concerns and recommendations. We stand ready to work with the members of the staff of the subcommittee to develop appropriate amendments to the Vocational Rehabilitation Act so that they might provide the services needed to deaf people.

Senator RANDOLPH. Mr. Mathews, for the subcommittee, let me thank you for you very helpful appearance here with us today. We will place the text of your statement in the record in full, together with your extemporaneous remarks that have gone with it.

If there is no objection, and I am the only one here that could object, so I ——

Mr. MATHEWS. It sounds unanimous.

Senator RANDOLPH. We appreciate very much your being here today. It has been very helpful to the subcommittee.

[The prepared statement of Mr. Mathews follows:]

STATEMENT OF GLENN MATHEWS
CHIEF OF SERVICES TO THE DEAF
WEST VIRGINIA DIVISION OF VOCATIONAL REHABILITATION
PRESENTED BEFORE A HEARING OF
THE SUBCOMMITTEE ON THE HANDICAPPED
COMMITTEE ON LABOR AND PUBLIC WELFARE
UNITED STATES SENATE
PERTAINING TO
THE REHABILITATION ACT OF 1973, AS AMENDED
MONDAY, FEBRUARY 23, 1976

Mr. Chairman and members of the Subcommittee on the Handicapped, the Professional Rehabilitation Workers with the Adult Deaf are grateful for this opportunity to testify on the implementation of the Rehabilitation Act of 1973.

The Professional Rehabilitation Workers with the Adult Deaf is an organization founded in May 1966, for the purpose of promoting the development and expansion of professional rehabilitation services for the adult deaf to provide a forum and a common meeting ground so that the organization may be instrumental in bringing about a better understanding of deaf people as a whole by encouraging students, professional persons, and laymen to develop more than a superficial understanding of the needs and problems of this group - especially the problems related to communication techniques needed to work effectively with the adult deaf in a rehabilitation setting, to promote and encourage scientific research of the needs and problems engendered by deafness which inhibit in important ways the successful overall functioning of a deaf person, to promote and develop recruitment and training of professional workers with the deaf, to sponsor a professional publication for the promotion of inter- and intra-disciplinary comminication among professional persons primarily concerned with deaf adults and others interested in such activities and to cooperate with other organizations concerned with deafness and the deaf and with rehabilitation and allied services in promoting and encouraging legislation pertinent to the development of professional services and facilities for the adult. Our membership is composed of Professionals working in the field of vocational rehabilitation in such capacities as: counselors, state coordinators for deaf programs, state directors of vocational rehabilitation, interpreters, social workers, teachers etc., plus, many with personal interest in the Deaf and Deafness such as Ministers, Parents of Deaf children, friends, neighbors, etc. Our membership endeavors for the improvement of services for the Deaf at the vocational rehabilitation level and for betterment of living conditions which is what we all hope for in this country.

The Professional Rehabilitation Workers with the Adult Deaf feels that we should not overlook our nation's birthday. In this our bicentennial year we take cognizance of our nation's world position as the leader in providing services to its' handicapped citizenry. Recent years have provided us with increasing knowledge. The first census of the Deaf population of the U.S. in over 40 years has shown the number of individuals with hearing impairment to be approximately 13.4 million. (The Deaf Population of the United States by Jerome D. Schein and Marcus T. Delk, Jr., 1974.) This constitutes perhaps the largest group of disabled individuals with a single handicapping factor. Of this number 6.6 million have significant hearing loss in both ears and 1.8 million are deaf (cannot hear and understand speech). Yet not more than 7,500 deaf persons are being rehabilitated annually and this fact points out our basic concern. Even with legislation designed to provide adequate vocational rehabilitation services, deaf people continue to be underserved. Further developments indicate that today's world of technology requires training and education above and beyond what is available to the average deaf person. In the Vernon-Mindel book, "They Grow in Silence", 1971, a labor authority is quoted to the effect that within 10 years unemployment among deaf workers will be about 70 percent, and most of the remaining 30 percent will be "dead-ended" in various unskilled and menial jobs.

Vernon and Mindel mention five major trends which are the most likely to contribute toward the somber future for deaf workers. They follow:

1. There has been a shift from manual, semi-skilled, and unskilled jobs to many more white collar jobs.
2. Of the 22,000 types of jobs listed in 1965, over 6,000 were new since 1959 and over 8,000 that existed are now extinct.
3. Educational requirments for employment are rapidly increasing. The average worker today spends 33 percent more years in school than his predecessor, and this trend is increasing.
4. Employment in the service sector will experience the fastest growth.
5. Seventy percent of Americans now live in the cities and suburbs.

If the lack of services (already shown) continues at its present pace, how will the Federal Government react to the even greater needs that today's world of technology places on the Deaf individual.

Office of Deafness and Communicative Disorders

Perhaps the greatest concern of deaf people today has to do with our lack of input at decision making levels of government. Historically, programs have been planned for, not with deaf people. This is not intended as a criticism of the R.S.A. Office of Deafness and Communicative Disorders. This small, seriously understaffed office, has for years been quite responsive to the needs of deaf people. The problem stems from the fact that ODCD has little, if any, influence at the policy making level and has no budget with which to carry our programs. Nor does it have a legislative base to ensure that, no matter what administrative changes are made, the needs of the nation's deaf people will always be adequately served. While the office itself has been given additional responsibilities as R.S.A. has grown over the years, it now has fewer professional staff positions that it did a few years ago and still functions as a consulting rather than programming office. It is crucial, since the Office of Deafness and Communicative Disorders is the only existing Federal office exclusively serving the needs of deaf people that the office be given the appropriate legislative and fiscal base to carry out its function.

PRWAD is pleased to see that R.S.A. has recently elevated the Office of the Blind and Visually Handicapped to the Assistant Commissioner level. Since the functions of the Office of Deafness and Communicative Disorders, as outlined in the Federal Register, Volume 36, No. 111, Wednesday, June 9, 1971, are identical to those of the OBVI, it would seem plausible for the Subcommittee to recommend that Congress enact similar legislation to provide equal status for the Office of Deafness and Communicative Disorders and to authorize additional staff for the ODCD as was done for the OBVI in the 1974 amendments to the Vocational Rehabilitation and are presently receiving little attention outside of R.S.A., the ultimate need is to have a qualified person within the Secretary's Office of Planning and Policy Development who will represent the area of Deafness. Only then will the Federal Government begin to meet the needs of America's deaf citizens.

Model for a State Plan for Vocational Rehabilitation of Deaf Clients

Historically the quality of vocational rehabilitation services available to deaf persons has varied considerably within and between State Agencies. Recognizing this situation, a joint committee of representatives from the National Rehabilitation Association Task

Force on Deafness, the Council of State Administrators of Vocational Rehabilitation Committee on Deafness, and the Rehabilitation Services Administration met in 1973 to develop the Model for a State Plan for Vocational Rehabilitation of Deaf Clients. The purpose of this document is to propose a basic level of services which, if provided in each State Agency, would ensure a minimum standard of commitments and programs to serve deaf clients. The Model for a State Plan for Vocational Rehabilitation of Deaf Clients (MSP) was endorsed by the R.S.A., the N.R.A., the CSAVR, the National Association of the Deaf, and the PRWAD. The MSP has also been endorsed by administrators, service providers, and consumers, and has been described at the most far reaching, well constructed rehabilitation document in existence.

Mr. Chairman and members of the Subcommittee, despite the existence of an excellent plan which would significantly improve the lives of deaf people, very little has been done over the past three years to ensure the implementation of the MSP. This is extremely puzzling since implementation of the MSP could be accomplished at little additional cost. What appears to be lacking, Mr. Chairman, is a lack of commitment on the part of the R.S.A. to serve the hearing impaired. You have heard the statistics comparing the number of deaf people to the number of deaf clients rehabilitated. The National Census of the Deaf Population, quoted earlier, indicates that deaf cases present a high rate of successful closure. Mr. Chairman, deaf people are severely handicapped and are in need of rehabilitation services and respond well to them when provided in a context and a language that they understand.

Mr. Chairman, the Professional Rehabilitation Workers with the Adult Deaf encourages this committee to look into the reasons for the delay in implementing the M.S.P.

Implementation of the State-Federal Program

The State-Federal Program of Vocational Rehabilitation is the largest provider of services to deaf individuals, and many members of the PRWAD are employed at all levels of the State-Federal Program. The lack of commitment to adequate services for deaf clients filters from the R.S.A. down through the regional, state, and local levels. As mentioned elsewhere in this testimony, the R.S.A. has not even staffed its own central office with the personnel necessary to effectively deal with deafness. The shortage of staff in the Office of Deafness and Communicative Disorders (ODCD) has made it impossible for the ODCD to respond to the regional and state needs in developing programs for deafness rehabilitation. The ODCD is not a vital part of Central R.S.A. administration at the policy and decision-making level. There is no provision for a full-time interpreter in the ODCD, and this severely impairs the deaf staff members from participating in the day to day give and take so necessary for the R.S.A. to function. The PRWAD deplores this situation and wonders what the Congress will do to rectify the situation.

The Regional offices of R.S.A. have been given responsibility for assisting state VR programs in planning and implementation of service programs for disabled individuals. PRWAD understand that a person in each region has given specific-responsiblity for programs relating to deafness. However, it is our understanding that they have been given this responsibility in addition to other areas of concern. This creates a tremendous time demand on these individuals. In addition, there is a lack of expertise in the area of deafness that can only be alleviated by a quality in-service training program on deafness. With the time demand and the lack of knowledge in the area of deafness, it is unwise to assume that states will receive adequate guidance regarding planning and implementation of programs for deafness rehabilitation.

Communication is an important word to deaf people, but it does not belong to deaf people alone. The PRWAD is noticing a lack of communication among all levels of the state federal program when speaking of deafness rehabilitation. Without proper central office and regional commitment and expertise in deafness, states are not able to develop and implement programs for deaf clients. Some states have made notable strides in the area of deafness rehabilitation, but they have done so with little or no help from the R.S.A.

Their support, encouragement, knowledge, and advice has come from organizations such as the PRWAD, N.R.A., and CSAVR. Those of us who work with deafness are more than willing to assist these states, but we are also more than willing to help the RSA develops its response to deafness. If we were aware of a commitment and a request for assistance, the PRWAD would certainly respond favorably.

The Model for a State Plan for Vocational Rehabilitation of Deaf Clients is written with the state-federal program in mind. It is a good service delivery system and one which could be responsive to deaf clients. The MSP indicates what changes can be made and describes in detail how to accomplish these changes. The PRWAD believes that if the MSP is implemented in each state, deaf clients will finally be able to deal with a system which responds to their unique needs. They can become clients and not just merely advocates to gain services for which legally and morally, they are entitled to receive.

The PRWAD wishes to mention some particular aspects of the state-federal plan which are creating great difficulties for deaf clients and for the service providers. One is the Individualized Written Rehabilitation Plan (IWRP). Deaf clients continue to be served by countless professionals unable to communicate with them. The IRWP was intended to provide clients with full understanding of their rights and obligations and the provisions of the VR Agency. Communication between Counselor and Client is vital. Mr. Chairman, this is simply not the case with most deaf clients. It is not fair to them or to the untrained counselor. Until trained counselors and interpreters become a regular part of the rehabilitation work force, we will not see the interest of the IWRP, as expressed in the Rehabilitation Act of 1973, as expressed by the Congress, made clear to deaf clients. In addition, the Rehabilitation Act of 1973, Section 103 (a) provides for the purchase of telecommunication devices for deaf clients. The PRWAD views this as a great aid in the rehabilitation of deaf clients.

The PRWAD is unaware of any guidelines that spell out the conditions under which such devices can be purchased. It would be of invaluable assistance to rehabilitation counselors if such guidelines could be developed. The PRWAD urges the Subcommittee to recommend the development of guidelines under which such devices could be purchased, and to encourage research efforts to make telecommunication devices better adaptable to deaf persons.

The State-Federal Program operates with a set of eligibility requirements and coding categories which affect the kind and amount of services provided to a client. The present coding system is unclear regarding the areas of deafness and hearing impairment. The PRWAD recognizes that individuals with similar hearing impairments may be coded differently within and among states, and this often leads to improper or even non-provision of services. We urge the Subcommittee to encourage research into the coding and eligibility of hearing impaired clients in the state-federal program as it relates to the severely handicapped and provision of services to deaf clients.

Facilities

Mr. Chairman, the PRWAD wishes to express its appreciation to Congress for authorizing the establishment of the National Center for Deaf Blind Youth and Adults. This was a very important and much needed step in expanding services to the long neglected segment of the deaf population. There are, however, many more severely handicapped deaf people for whom no such facility exists. I am referring to those deaf individuals who also have secondary disabilities, such as mental retardation, emotional disturbance, or cerebral palsy. Often their physical disabilities are complicated by serious language deficiencies, lack of independent living skills, alienation from families, and inadequate or no work experience. Estimates of the size of this population run as high as 100,000, many the victims of recent rubella epidemics. Experience in R.S.A. research and demonstration projects over the past two decades has shown quite conclusively that while this is a difficult and complicated population to work with these individuals can be rehabilitated when programs are designed to meet their needs and when staffed by highly skilled professionals. Despite this fact there is, at present, no long-term comprehensive facility designed to serve this group. There are under Section 304 (b) (1) of the Rehabilitation Act several grant supported projects designed to serve this population. However, these projects are funded for only three years. This makes it difficult,at best, to attract staff and plan for the long-term comprehensive needs of their clients. Even with these demonstration programs we are still serving only a fraction of those in need of assistance. At present, not more than 200 severely handicapped deaf persons are being served at any given time at these facilities and not more than 30-40 are being rehabilitated annually. What is needed if the intent of Congress to serve severely handicapped deaf people is to be realized is (1) long-term funding committments to existing programs and (2) the establishment of a National Center for Severely Handicapped Deaf Youth and Adults patterned after the National Center for Deaf-Blind Youth and Adults. This Center would develop methods and techniques for serving severely handicapped deaf people, conduct needed research in the area, prepare professionals to work with this population, offer technical assistance to state agencies and programs throughout the country, and improve public understanding of the needs of severely handicapped deaf people.

Another area of need, which was touched upon by Mr. Pettingil in his earlier testimony, has to do with the lack of mental health facilities available to deaf people. Again, R.S.A. research and demonstration projects in New York, California, Illinois and the District of Columbia have proven conclusively that mental health services can be provided to deaf people in an efficient and economical manner. However, there has been litte if any follow-up on these findings. As a result, deaf people continue to be mis-diagnossed and mis-managed in facilities where the staff is totally lacking in the skills necessary to serve this population. To correct this situation, the PRWAD would like to go on record as strongly endorsing the recommendation of the National Association of the Deaf that there be established in each of the R.S.A. Regions, at least one in-patient center for the deaf mentally ill.

Research and Training

Mr. Chairman, as the focus of rehabilitation has shifted to the severely handicapped deaf the need to find more and better ways to serve this population has intensified. And yet, our experience over the past few years has shown that research dollars have virtually disappeared. What was once a vigorous and productive research program has now for all practical purposes ceased to exist. In fact, there has been no new R.S.A. supported research efforts initiated in the area of deafness since 1973. The Research & Training Center at New York University,(RT 17) now ranks 17th in terms of funding priority money the 19 R.S.A. supported R & T Centers. Recently this Center has had to cut back seriously on its staffing in order to meet funding limitations. This is a severe loss when one considers that RT-17 is the only ongoing program in a position to carry on research related to rehabilitation service delivery to deaf people. I might add that RT-17's basic grant of $250,000 has not changed since it was established in 1967. When one considers the inflation factors over this period of time the seriousness of the situation becomes apparent. This same story could be told about other research efforts which began in the 1960's and have now ceased to exist. If I were forced to describe in one word our research efforts in deafness at this point in time the word I would choose would be tokenism.

What is needed is a much stronger committment, both moral and financial to finding answers to the many problems facing us. The need is great and time is running short. Research in the areas of telecommunications, employment, physical and mental restoration, consumer involvement and communication barriers are just a few of the areas in which research is desperately needed.

The problems referred to under research exists to even a greater degree when one looks at the area of Training. Historically, the number of rehabilitation counselors able to effectively work with deaf clients have been in short supply. As we attempt to expand rehabilitation services to our most severely handicapped deaf people this problem takes on added significance. The six ongoing rehabilitation counselors for the deaf training programs are finding it increasingly difficult to meet the demand for trained counselors by state vocational rehabilitation agencies and other organizations wishing to employ their graduates. Programs serving severely handicapped deaf people are seriously hampered in their work for lack of specially trained personnel, a critical factor in successful service to this difficult-to-serve population. In addition to counselors,there is a growing demand for psychologists, social workers, vocational evaluators, counselor aides and placement specialists.

At present no professional training programs exist to prepare these personnel. Until such time as more specialists are available, there will be a growing need for skilled interpreters; those individuals who can bridge the communication gap between the professional unfamiliar with the problems of deafness and his deaf client. Unfortunately, the number of certified interpreters able to fill this role is in very short supply. While RSA is attempting to correct this situation by funding a number of interpreter training programs this effort must be greatly expanded if we hope to bridge the gap between supply and demand. Again, what is needed is moral and financial committment to solving this problem. One approach which has not been tried and which would, I think, be cost effective would be to have all rehabilitation counselor training programs include at least once course on deafness in their curriculum. At present this is not the case. While this approach would not eliminate the need for highly trained specialists in vocational rehabilitation agencies it would insure that all graduates of rehabilitation counselor training programs possess at least minimal skill in working with deaf clients. In order to implement such a program it would be necessary for university training programs to utilize the expertise of specialists now in the field. In conclusion, I would like to urge that a certain proportion of training be earmarked for research in training in the area of deafness. Unless this is done we are likely to see a continuing decline in effort in these two vitally important areas.

Mr. Chairman, we appreciate the opportunity to appear before the Subcommittee and present our concerns and recommendations. The Professional Rehabilitation Workers with the Adult Deaf stands ready to provide additional information if you so desire. We are also prepared to work with the members of the staff of the Subcommittee to develop appropriate amendments to the Vocational Rehabilitation Act.

Thank you.

Senator **Randolph**. The Chair would now ask the Panel on Rehabilitation Research, Dr. William Spencer, Dr. Richard Herman, Dr. Joseph Goodgold, and Dr. Rick Heber, if they would come forward to the witness table.

Gentlemen, I gather that Dr. Heber, who is a Ph. D. and not an M.D., is not with you.

Dr. **Spencer**. He could not be here, unfortunately. We wanted his assistance in describing to you the needs and the accomplishments of the programs of mental retardation.

Senator **Randolph**. And I want you gentlemen to know that Senator Schweiker had intended to be here. He's run into a severe scheduling conflict this afternoon, and for that reason he will not be able to join us during your testimony.

The Chair would invite you to decide among yourselves how you wish to proceed and proceed in whatever way you care to.

STATEMENT OF WILLIAM SPENCER, M.D., DIRECTOR, TEXAS INSTITUTE OF REHABILITATION AND RESEARCH AND CHAIRMAN, DEPARTMENT OF PHYSICAL MEDICINE AND REHABILITATION, BAYLOR UNIVERSITY, ACCOMPANIED BY RICHARD HERMAN, M.D., DIRECTOR, KRUSEN RESEARCH CENTER, TEMPLE UNIVERSITY; AND JOSEPH GOODGOLD, M.D., PROFESSOR OF REHABILITATIVE MEDICINE, RUSK INSTITUTE OF REHABILITATION MEDICINE, NEW YORK UNIVERSITY

Dr. **Spencer**. Mr. Chairman and honorable member of the committee, we are more than honored. We appreciate particularly the fact that you have established these hearings, that you wish to review the implications of the initiatives that were established in the 1973 Rehabilitation Act, and I think perhaps even more importantly, the fact that you have mandated attention to the needs of the severely handicapped and severely disabled.

I represent the American Congress of Rehabilitation Medicine and its legislative committee. Also present are Dr. Goodgold of the American Academy of Physical Medicine and Rehabilitation, and Dr. Herman, of the Research and Training Centers and Rehabilitation Engineering Centers.

As has been established under previous authorities, our purpose is really to point up what we think is a major problem and a crisis. Research in the field of rehabilitation is almost solely directed to the needs of the consumer population. Research studies to try to benefit the disabled by assisting them in achieving an independent and productive life. The Rehabilitation Services Administration and the VA are the only agencies of Government that are really so directed in their research.

Yet appropriations for this research have gone from a high of $40 million in the late 1960's to less than $19 million this past year, although the Senate and the House appropriations bills added a modest $4,500,000 to $5 million to that total. We face an attrition of research capacity, which is a catastrophe in the United States. You heard an example of it in the comments made earlier about the deaf.

At least 5 percent and possibly 6 percent of the population of the United States have or will incur a severe disability. We are standing at the bottom of a mountain which is going to require all the technology and all the knowledge that we can muster in order to surmount it. The task is far more complex than the lunar missions, yet we are handed a walking cane instead of a rocket.

I am embarrassed to be here because I am not a medicant. I am trying to represent and advocate the needs of the severely handicapped people, and I hope that our comments will be looked at in that light, because we want to work with you; we have worked with you in trying to increase the initiative of our Nation to give handicapped people the circumstances that will allow them to be productive rather than dependent people.

I am reminded in my comments of the recent experience with the executive branch of Government when I pleaded for the use of the available funds, as modest and as small as they were. Despite the 50 percent reduction in the research capacity of this Nation in this field, I was told "You don't understand the problem; you have to realize that we are going to cut back."

I said, "You don't understand the problem. The more you cut back our capacity to wrest from dependency and disability the Nation's handicapped people, the more you add to welfare dependency and financial assistance."

We already have data which show that the cost effectiveness ratio of comprehensive rehabilitation for the spinal cord injured is eight to one over custodial warehousing in nursing homes at public welfare expense.

For $20 to $25 million, instead of the present quarter of a million dollars, more than half of these people can be returned to productive employment. However, we are witnessing the research, gradually, by attrition and by overspecification, reduced to an inadequate and insufficient effort.

I've asked our colleague from New York University and from Temple University to really examine the implications of three major problems we see in the context of accomplishments of research in the last decade and what has happened with the attrition that I have identified.

First, obviously we feel that the funding authority at the appropriation levels is inadequate. Let me say now, speaking for myself, Senator Stafford, that if one wanted to demolish the program, the ideal way to do it is to underfund it, overpromise in terms of the results it is supposed to give, and set the limited research people and limited capacities at each others' throats to fight for the insufficient bread on the table.

Now, that's the situation. That's ridiculous.

The first agency of government that had the peer review system abolished was the Rehabilitation Agency.

Why?

Because the larger agencies that deal in billions could muster enough opposition to the elimination of peer review for science, for program evaluation and planning.

Now, that's one problem; money, and we will discuss that in some depth.

The second problem we see is the fact that this lack of involvement appears not just in scientific review but in the planning process, in the evaluation of results. The commitment to changes more and more adapted to the needs and potential of handicapped people has just been so marginal that in fact it has been only in the last few months, to my knowledge, that the National Advisory Council, which was a statutory council, has been reestablished.

The third problem is that the research effort in this field is unique. It is unique to RSA; it is multidisciplinary and multiprofessional; it is very broad in objective; it is very, very limited in capacity. Yet, we see increasing emphasis on solving really the problems of catastrophic illness and injury disability, while we are faced with an ever-vanishing capability.

So what this means to us is that if we are not careful the small size of the research effort will not be identified by you gentlemen, or by the Congress, as the very important and significant effort it has been and will be.

With those comments, I will close. I think my colleagues will be much more specific in looking at the accomplishments and needs and illustrate whether those problems are imaginary or are real.

Dr. Herman, who is the director of the Krusen Center of the Temple University, the chairman of the Department of Rehabilitation Medicine, the director of the Research and Training Center and the Rehabilitation Engineering Center at that university, will describe some of the problems that he sees in making available to handicapped people the things that we have already developed.

Senator **Randolph**. Doctor, would you mind bringing the microphone over, please?

Dr. **Herman**. I will move my show-and-tell exhibit here.

Senator **Randolph**. This is to help us to have an accurate record of what you are saying.

Dr. **Herman**. I appreciate that, Senator.

I thought that in order to indicate some of the aspects of the engineering program, I would bring my show-and-tell exhibit with me and describe some of the impact and some of the utility of the devices—not simply devices, but part of a systems approach to the severely handicapped.

I must remind you, Senator, that it is really only the RSA and the VA who are dealing with the consumer. The other agencies do not deal with consumers as we do.

Given that comment, if we did not have the impetus of the engineering program, I think it would be safe to say that we could not deliver to the consumer some of the niceties that I am showing you here.

The RSA is not only consumer oriented; it is problem oriented as well, a medical problem orientation. In this regard I think that we are unique, and I think RSA is the only agency that is dealing with the problem in this way, aside from the VA.

Now, things have changed somewhat in engineering. For many years, the engineer always provided a solution and went around and hunted around for the problem.

Now we have something that is problem oriented. The engineer has joined the clinical team, so to speak, under the impetus of this program, and the problems are evolving as the solutions are derived from the problems.

Second, it also has a biological basis for the first time, and we have never had that before, a real rationale for the development of these programs.

Now, over here I have a number of devices which I want to show to you. Some come from the more ancient history of engineering and rehabilitation: Namely, that of artificial limbs and braces. For years we have been developing metal braces, heavyweight, cumbersome, noncosmetic and expensive.

Today, with the petrochemical industry and the development of vacuum forming devices, we have better bracing, better cosmesis, lower price, patients who can get out of the hospital earlier, and patients who can deal with the issue much better. Here is an example of a device. It used to be that a metal brace would have to be put on sometime above the knee because this does not support the foot and we have never had this before.

Now, this brace costs one-third of a metal brace and we have not made a metal brace for over 3 years; but there is a problem to all of this, and I will bring that up in a moment.

The area of artificial limbs, as you know, has been developing for many years. Due to improvements using plastics and vacuum forming, we have an artificial limb that now weighs 1¼ pounds that was first developed for the geriatric individual, but now is being used by youngsters 20 years old, 21, 22, who prefer it. It's very lightweight. They are using it on basketball courts and up in the mountains in your own area.

As we move on to technology, we have a new area of technology derived from the NASA program in part, and that is of pacemakers.

These are now very sophisticated and are being implanted in many parts of the nervous system, and to improve mobility, speech. It's a very exciting, new area for all of us, and I brought some of these devices with me, but I don't want to show them at the moment.

We have a package here derived from many years of research in our own laboratories and others, what we call sensory feedback instruments which provide information to the subject of precisely what is happening to them in space. I will just give you a very short demonstration. I hope it works—it is always embarrassing if it doesn't work, but I will plug it in anyway.

This measures the amount of weight that you bear on the ground, and by knowing the amount of weight we can train the amputee or someone who has had an impairment of the nervous system precisely how to control the amount of loading on a limb. They take these instruments home; they are self-monitoring so they do not have to come to the hospital for treatment as such. When I press on it, this light goes on, the tone will change or I can put on a tactile instrument over here, and they will know how much weight they are putting on the ground.

We have a whole bag, so to speak, of these instruments which are related to the young people and older people with nervous-system diseases that provide them with information of all kinds that can leave the hospital with these instruments and yet accomplish a great deal more than they can with conventional therapy because it has a biological base of operation.

But to really indicate our major problem, I am going to submit to you, Senator, a device which we have designed for the dyslexic child and adult, a child or an adult who cannot read or is having difficulty in reading. This device was developed in our laboratories. This device was tested in the Philadelphia area, and the results have been outstanding and published, and if I could submit—and you may keep this—this device can be marketed, can be put out through many other educational facilities throughout the United States. Yet where is it? It is on the shelf so to speak.

Now, with this device, which is rather inexpensive, although it does look very sophisticated, our problem is in the development of an evaluation assessment program or system, a process in which we cannot deliver this hardware throughout the United States to the consumer. There are constraints against this system which are real and which are very, very frustrating.

Our job is to develop this technology to show its efficacy internally. With the limited amount of moneys that we have, it is not our job to market the device, put it out in terms of production, to train other personnel to use it. We just don't have enough money for that.

And so from the initiation, from the peer review level, which we do not have, either, from a scientific or medical level all the way through many sublevels of internal and external evaluation, we have demonstrated the effectiveness in putting this out so the consumer can really use it. We are hung up on a real major issue, and an issue I feel that must be faced; money must be made available to support this distribution, this marketing, a peer review system, all the sublevels of an adequate evaluation assessment process.

Without this, Senator, we can't make this available to the consumer.

Senator **Randolph**. Doctor, we are going to put the material which has been handed to me in the record in its entirety, so it will be there.

Dr. **Herman**. Thank you, Senator.

Dr. **Spencer**. Senator, this illustration we asked Dr. Herman to present to you is one of the literally hundreds we could give in which there is a growing gap between what has been developed by research and the availability of that to literally hundreds of thousands of people. The same is true for sensory aids for the deaf and the blind, for mobility aids, for transportation aids, for environmental control, so that if a person who is totally handicapped can get out of his house, can still work, can still go to school, if a young person.

Now, I mention this because what has been confused in the appropriations is the fact that research money has been covering development, demonstration, as well as research, and at the same time the total dollar base has been decreasing.

Now, that's a very important distinction because there has been much confusion about that.

Now, I ask last Dr. Goodgold, the director of the Research and Training Center at New York University at the Institute of Rehabilitation Medicine, who is an outstanding scientist in the study of nerve and muscle disorders that are handicapping, to discuss what is happening to the research programing as a result of our present situation.

Senator **Randolph**. Dr. Goodgold, before you begin, the Chair is going to have to apologize to you for the fact that this seems to be an afternoon of conflicting engagements. First of all, Senator Javits expresses his regards to you and his regret that he is caught up in an engagement in New York City.

This Senator has an appointment up in his office for a few minutes. I shall try to get back as quickly as I can, but in the meantime, if you will go ahead, Mrs. Patria Forsythe, who is the staff director of our subcommittee and Mr. Jackson M. Andrews, minority counsel, will keep the hearing going.

[Mrs. Forsythe assumed the chair in absence of Senator Randolph.]

Dr. GOODGOLD. I think that the problems that I am going to be concerned with for the next 10 minutes or so are really rather mundane. They are concerned with who is going to do research, who should be doing it, who is to determine who should be doing it, and then how is the process of evaluation and interrelations within the RSA Agency and with other agencies in the Government functioning to a positive level.

Let me just quickly pass through the sequence of events leading to the research program.

There are legislative hearings such as this one carried out with staff and legislators which ultimately produce legislative acts. These acts are then transmitted to the agencies for implementation, interpretation, legalistically, bureaucratically, and then arise as a matter of policy, strategy, issues, rules, and regulations.

As a consequence of all of these rules, regulations, and strategies, a set of information is made available to the researcher governing what he is to do, his funding, and what's going to happen with the information he makes available.

The first question that I am concerned with is the matter of evaluation of the research effort, and in the evaluation of the research effort, I think we would have to start with a peer review program in this particular instance concerned with a group of individuals who are assigned the task of determining whether the research effort is one that falls within the category to be supported, whether it is a sound scientific program, whether its methodology, statistical sampling, methods of validation are correct, and whether this is something that can be administered in an orderly fashion.

At the moment, the input to the RSA in formulation of strategy and issues is not as strong as I personally and many of my colleagues would like it to be. It may be a matter of logistics, but it reflects internal problems in the administration concerned with their lack of adequate personnel to handle this problem; perhaps inadequate personnel in numbers and inadequate funding to carry out these procedures.

If we are to be concerned with medically oriented rehabilitation research, then it would seem most logical that the input to the policymakers include an administrative staff who are oriented in the medical oriented problems; so that when a matter of relevancy to the mission of the legislature is considered, then this matter of relevancy can quickly be determined by a person or persons who are equipped to make this type of decision.

A second problem involving the evaluation system concerns the people who are intended to carry out the policy of peer review. It has recently been the practice, as with the most recent Rehabilitation Act, to include the functions of the National Academy of Sciences and the National Science Foundation, in these selective activities in the hopes that a roster of individuals who are capable of peer reviewing would be induced to participate in this process of selection.

I don't think that this is the major problem, that we do not have sufficient individuals who are trained to carry out this program; rather, the rehabilitation agency has not had the administrative setup to include individuals in the field who are well trained. At the moment there are approximately 1,000 to 1,600 certified specialists in rehabilitation medicine, many of them oriented in their work in academic centers, many with specialty training in allied and other fields, who are capable of serving in this peer review program. The problem with soliciting aid from another group invokes the difficulty incumbent in the rehabilitation process in that this is not a pure and experimental situation.

The problems with rehabilitation research involve an individual and the needs of the individual and the research responsive to his needs. They include not only a laboratory procedure but a realization of his social needs, his economic needs, and his vocational needs. The behavioral problems of the individual cannot be excluded from the consideration of the peer review mechanism, so that many of the individuals in the pure sciences are eminently capable of rendering opinions about methodological approaches to a problem, yet since our research is client oriented and is directed toward the solution of the problems of an individual, a person, then it is difficult to select a set of peers from people whose major orientation is in the pure sciences.

This leads to consideration of the value of direct versus unsolicited grants of funds and the constraints regarding basic versus applied types of research.

Most of the funds at the present time, as limited as they are, are totally wrapped into a system of directed research. In a way, this encompasses a great problem; if a group or an individual comes up with an innovative approach, something outside of the directed categories of research, the cold fact at the moment is that there is no way to fund it; there is no money remaining in the research program other than that which has been designated for the directed research organized under the strategy for a particular year or number of years.

With regard to the problem of basic versus applied research, it again is an artificial constraint, since a research project occasionally has to delve into some of the basic concepts as etiology before an approach can be made to effect a cure.

My final remark concerns the problem of the research falling in between the cracks.

For example, the research in rehabilitation medicine is absolutely usually clinically oriented; basic research probably is only carried out to the extent that it is of assistance in the clinical research effort.

The funding for this type of research solely and totally comes for the Rehabilitation Services Administration. Any basic aspect to the research at the present time is considered irrelevant; so that in a rehabilitation center like New York University, if a proposal is made to include some aspect of basic research related and important to the exposition of a clinically oriented problem, this is not funded and we are very frequently advised to seek funding from another agency which is organized to support basic research; for example, the National Institutes of Health.

The problem is demonstrated in the following example:

A basic approach was proposed concerning a specific muscle disease. To determine the effect of certain drugs on the muscle reaction, the abnormal muscle reaction, it was proposed that this be studied first in an animal model rather than in the patients.

An animal model was readily available and had been used for many years. The research was rejected as being too basic in nature.

At a meeting here in Washington, this matter was brought up and a representative of the National Institutes of Health said that he agreed exactly with this premise because this particular research would fall within the bailiwick of the National Institutes of Health and that properly, the New York University group interested in this research should have applied to that agency.

Now, the fact of the matter is that the New York University group did apply and that the National Institutes of Health indicated that the substance of the research was excellent and showed scientific merit. However, it was not funded because that particular research, with its ultimate clinical orientation, fell in the lowest category for fiscal group support.

So that my point is that to artificially separate the overall aspects of the research is detrimental and that the funding problem must cross lines. The ultimate goal, I think, should be for research workers who have demonstrated a capability to do the work in a place that is suitably instrumented and in a place where there is adequate help; that should be the major criteria, rather than to determine what is basic research, what is clinical research, and what does not apply.

Dr. SPENCER. Thank you, Dr. Goodgold.

I will try to conclude and summarize for all of us to point out that there are now definable problems and there are also solutions.

The first problem, as far as lack of money, arises from two things: the fact that the limited money that is available for research is spent on so many purposes, on many different necessary areas of purpose, if you want, but far too little is available for the scope of what is trying to be covered. For example, research activities of the kind Dr. Goodgold is talking about, developmental activities of the kind that Dr. Herman is talking about, to make available devices for evaluation and then for pilot production and distribution to handicapped people, there are no funds for that.

Similarly, there is no fund base of any consequence for demonstration. You know, this Congress mandated demonstrations to show whether or not severely handicapped people had the potential of work or the potential of independent living. There were only three or four projects mounted under that mandate, and all of the money for these came out of the research budget.

Similarly, when Congress allocated money for spinal injury centers as specific demonstration projects with earmarked money, that money also came out of research.

Now, when you see too little money trying to cover too many programs, what happens is, any one is insufficient, and that's the way you simply destroy a total initiative. That was the meaning of my earlier remark. But there is a solution.

The solution is specify money for research, for research centers, for rehabilitation engineering centers, for spinal injury research, just as you have done in legislation, but when you come to marking up appropriations to earmark money for those purposes.

Similarly, for selected demonstrations for the severely handicapped, for the development and distribution of devices, allocate authority and money for those functions. Don't leave it to a hodgepodge of undirected, unplanned, unevaluated distribution of a too limited amount of research money.

Next point, we feel that the development of a planning and assessment process involving peers is crucial. This simply means that we have to move forward to involving the consumer, involving the service provider, involving the third-party sponsor, the State agencies in a planning process which has sufficient input from all those affected by a potential legislative thrust and a potential administrative program direction to define the success criteria and make it possible to really evaluate whether we are getting there.

For example, this Congress many times, and very properly, has asked questions. How many disabled are there; how many of them are in need and will benefit from rehabilitation services; how many are not being provided services; how many would benefit from knowledge that is available and not used, et cetera?

The problem has been that we haven't had a reporting system; there is no national reporting system to identify how many disabled people there are. We used to have a reporting system for contagious diseases. We could tell how many polio cases there were, but I can't tell you how many disabled people there are with enough accuracy to come back and compare alternative programs of services in terms of cost effectiveness. We are just now beginning to get into research dealing with outcome.

I brought you this as an example. I will show it to my friends back here.

In here is a microcomputer. This will record every step that you take for 1 year. Using this type of device in comparing different solutions to mobility problems of the handicapped, we can much more accurately determine what in practice is actually useful and then direct expenditures of program money toward those things that will work and will be used.

We are just beginning to touch that problem of evaluation of outcome.

Now, this situation is not hopeless; it simply needs a resuscitation; the patient isn't dead; we know that handicapped persons who should be helped and are not receiving help can be brought into the arena of productive service in our country.

The language of legislation has to be much more specific to reinforce the essential joint activities of research, development, service demonstration and training as a function of our research efforts and research and training efforts. There is little doubt that in this field where you're dealing with the person who is handicapped, and not a laboratory animal, a guinea pig, a mouse, or a test tube, we are dealing with human beings, you have to protect their rights, their condition; you have to understand their problems in their situation of living and their situation of work. That is what has to be studied. That is expensive.

The methods are difficult. They are time consuming to develop, but it can be done and emphasis on keeping closely connected, the rehabilitation service process, the research process and the training of people will make it possible to really begin to approach those problems.

Another problem area that I mentioned was the uniqueness of research, especially this kind of research, to RSA and VA. If we do not find a way to get a sensible and aggressive increase in appropriations, a closer integration of the administration of State and Federal activities that impinge upon research and a clarification administratively of how much and what should be centralized and how much and what should be decentralized in the research effort, in the training effort, in the development effort, we would feel that we would be derelict in our responsibility to handicapped people and to inform you appropriately of how we should gradually, progressively, together, revise legislation so that these people can become responsible and capable people that we know they now can.

We have had experience with thousands of totally paralyzed spinally injured people. Ninety-five percent are living independently in their homes and specialized transitional living units or are living in apartments or in complexes. Only 5 percent are in nursing homes. Forty percent are gainfully employed. Virtually all the young people are in school to prepare for education.

This is a problem of 100,000 people. Of that 100,000 people, we spend in acute medical care $3 billion annually alone. It has been estimated from Liberty Mutual figures that it costs $250,000 to $500,000 to warehouse these people in nursing homes.

For one-tenth of that, one-tenth, comprehensive rehabilitation, applying what has been learned in research and training centers, in spinal injury centers, has reduced that cost to the point that it is affordable and it is far less expensive than welfare dependency.

Most responsible western countries have now taken the position that dependency cannot be afforded.

Howard Rusk said many years ago that if we are not careful there will be for every able person a disabled person. I would say today very soon for every dollar that is spent on all nonsense appropriations in the Federal Government, there will be probably a dollar spent on welfare unless we preserve, develop, enhance and use the capacity that research and demonstration and training will give us to address this problem that Congress has mandated properly on behalf of the citizens of the United States.

Thank you.

Mrs. **Forsythe**. Thank you.

If we could just have one moment, please. The Senators were here, and have had to leave momentarily, but I am sure they would want you to know that they did send in to the Department of HEW 24 questions, many of them covering the issues that you brought up about research.

They seemed to be particularly interested in Dr. Goodgold's, and your comments about what appears to be a lack of coordination between the agencies.

Do you have any definition, or could you define for us a model of how Project Research could be jointly funded, as we say, or better coordination developed between the agencies who are funding research, both basic and applied?

Dr. Goodgold. Well, it would be difficult to make a model for you, to present one, but I can paraphrase the words of the chairman of our committee on the national level, Dr. Rosen Levy, who has the program at the Massachusetts Institute of Technology, and is the chairman of the committee.

Now, he expressed his own personal sentiments that he thinks it is most appropriate if each agency sets its own goals and peer group.

Now, if the Rehabilitation Service Administration sets up a procedure of review systems with all of its imperfections, it still can work rather well. We would be able to work with the people we can mobilize from our own profession, who would truly be peers, because they would be concerned with the same research problems we are concerned with, and have the same kind of background to understand that such a peer review board would work quite effectively.

Now, if it were desirable to augment this type of peer review committee—if it might be called that, with additional cadres of specialists in very specialized areas of science, then we could call upon the membership in the Committees of the National Academy of Science to give support.

So that, if there were no one who knew enough about radiation medicine in the peer review arm of the RSA, then it would be very comfortable to have the National Academy of Science to back up the roster, and give us people who we could call on, and both agencies could very profitably work together. But I think if the peer review group becomes a static one, culled together from a group of scientists who do not have, as a background, the major interests, and they are trained in clinical medicine, that it is not truly a peer system.

Dr. Spencer. Well, I think that there is another beginning model to what we are talking about in the sharing of service responsibility at the State level.

Now, the only thing that you have to realize, though, is that you can share if you are truly peers, and if you are truly equal. If you are a minority, it is very difficult to share, because always the larger partner dictates what happens. I think that the reason why this has been so difficult to accomplish in rehabilitation, is that there is a minority field of effort, even though it has a majority in impact. I agree very much with the State agency people who in the testimony before ours pointed out their problems in reorganization. They are put into an umbrella agency, and very soon they are part of the budget, they are part of the responsibility, and look so small to other very large activities that there is progressively a decreased interest and attention to that which they are responsible for. I think the same thing is true in research, that until this field has stature and scope equivalent to the problems it is addressing, and until it can stand as a full and equal partner with other agencies and other groups that are responsible, then I think we cannot bargain and properly share.

We are doing this in a modest way in the traditional living way program in some of the features in Houston, and the Houston, Texas Rehabilitation Commission, the State welfare program, and our institution. The centers were put together to develop a model program which is now ready for the categorical funding which has been approved, but the problem has been the same old story, when something reaches the level of funding there is simply this evaporation of available money because it has been previously committed. But that is the problem with sharing, and I think there is a solution.

If there is a way we can develop cooperatively common objectives, and then utilize some sort of a commission that would have a long enough institutional life in Government to look across all agencies of the Government, and really begin to work at what authorities and what distribution of money could be reorganized and put together in a more effective manner, I think, too, we can help control costs, and not just continue to expand things as unique enterprises. But you see there is what I mean by a systematic process of evaluation, planning and assessment of where you are going: setting priorities, setting criteria that will judge whether you are getting there, looking at the constraints, trying to deal with them, setting up models, and progressively improving, rather than coming back to you with more and more specific recommendations that are legislative as against those which are administrative. I think we can get there.

Rehabilitation is a good field, but it is in the nature of the people who work in it to cooperate.

Mrs. **Forsythe**. Dr. Herman, do you have any comments?

Dr. **Herman**. No. I was going to address myself to the complex nature of a peer review in general. It requires two sets of peers.

One is the scientific level, and the other is the medical level, and they are different, and we have to address ourselves to that, and we have not seen that yet.

It is necessary. It is practically mandated. There is time now to have this firm development.

Mrs. **Forsythe**. I believe Mr. Andrews has a question.

Mr. **Andrews**. This question I would like to address to Dr. Goodgold.

Do you feel the peer review group should work with just RSA, or are you suggesting it should also be able to work with NIH, and perhaps NSF?

Dr. **Goodgold**. I did not hear the first part of your question.

Mr. **Andrews**. The peer review system that you are suggesting—are you suggesting that it only work with RSA, or also work with NIH, or perhaps NSF?

Dr. **Goodgold**. They have an independent review system, which is probably the model for this country at NIH, so that we would not have to have a peer review system for them.

What I am stating is that I really think we should use their system as a model, and utilize such a peer review system in RSA.

Now, we had some attention in the past. For the last 4 years, it has been about 4 years since the National Advisory Council was disbanded, and the study sections were eliminated. What I am suggesting is that these should be reinstituted for RSA, and we should then take advantage of the constructive criticism about peer review to restructure the peer review for RSA.

Mr. **Andrews**. You do not want to use one model for all the problems?

Dr. **Spencer**. This is very important—some feature of the kind of development and demonstration that needs to be done, and you do not want to use the model that works for scientific merit evaluation.

You have got another problem of what is relevant. Something may be scientifically valid, but may not be relevant, or in the near term be achievable.

No matter how much you program research, we are getting into a situation of skimming, where the only thing you are permitted to research are those things that you have already existing knowledge on, already existing tools, and are sure of, and yet long-term solutions almost always come from unexpected directions.

So you want to protect that. And, you want to protect the fact that in administering service delivery programs that are models, that are demonstrations, they have to be regulated. They have to be nationally specified and controlled, and again you use peers, but not exactly as NIH used to help, as in microbiology, but you have advisory groups, consumer groups, administrative groups, and you try to put this together in developing a plan of action, and then you go from there.

The key thing you need is diversity. You need to realize the different methods of evaluation which are tailored to different objectives and different levels of knowledge, and different constraints and limitations.

So you need balance. This is what we are concerned about. There has not been a balance of evidence. We have not preserved the best feature of scientific peer review, or fully developed and utilized the best feature of input from the variety of sources for program planning, program priority, program emphasis.

There have been directives and initiatives which have come primarily as congressional mandates or congressional directions, or implied in an appropriation or conference report language.

This is not bad, but when it comes to mouth a response, if there is not a capacity to meet the demand, if there are not circumstances and resources to use to make this come about then Congress gets disappointed, the administration gets frustrated, and handicapped persons, about the things they need.

Mr. ANDREWS. Are you suggesting that in an attempt to take advantage of those resources which might be available through NIH——

Dr. SPENCER. NIH has sponsored materials and research, some features of systems development, some basic research in neurophysiology, neurology, that has been very valuable. But what Dr. Goodgold pointed out to you is that if you are not careful, what happens is that when you use one agency to program an expenditure of another agency, it does not work.

In fact, as a shibboleth, the game of the Government is to find a way to maximize spending the other fellow's dough. You know that is true. and I know it is true, and you know what enthusiasm that receives, because when you have a program responsibility, and the authority, you are not about to have another agency telling you how to spend. When you realize that the peers he is talking about in rehabilitation do not populate the NIH study section, you should not be surprised that something that has rehabilitation relevance, or rehabilitation merit, does not have much enthusiastic support.

It may be scientifically OK, but it does not have support.

Mr. ANDREWS. Is there a need there perhaps to examine the priorities within NIH, to see that some more of those resources can go into this clinical type of research?

Dr. **Spencer**. I said, and I agreed with you, that if you can examine how to develop cooperative relationships rather than divisiveness and competition and control, then I think you are right.

I think as long as you take a small agency up against a many-branched agency, and asked it to defend itself, you know, you are in a David-and-Goliath situation. You have got to be very, very careful that David really has a rock, you know. That is going to solve the problem, but the point is that there are no panacea—you need a variety of methods, and a variety of solutions.

We certainly could have more cooperation. Congress has already passed several legislative, and actually statutory requests for interagency cooperation and communication, and I think in some features this works.

For example, the VA and RSA have cooperated very aggressively and very effectively in the prosthetic development field. They have done this for many years in excellent planning and communication.

It is unique, for testing and evaluation of the VA, are widely available through our field in the civilian sector. I know, because I am chairman of the special medicine VA group, and I am very proud of the fact that the civilian and the veterans sector could effectively work in rehabilitation. But they, too, are dealing with a very modest appropriation for the scope of the problems of the betterment, without taking out the scope of the veterans problems.

Mr. **Andrews**. Thank you very much.

I have no further questions, but I do have one comment that is to thank the panel on behalf of Senator Stafford for being an excellent panel.

Dr. **Spencer**. Thank you.

Mrs. **Forsythe**. There may be questions Senator Williams and other members will have that they would like to submit them to you.

Dr. **Spencer**. We would be happy to respond.

Mrs. **Forsythe**. Thank you very much. It was an excellent statement.

Our next witness represents the National Easter Seal Society, Mr. Richard Verville, and from the Association of Rehabilitation Facilities, Mr. T. P. Hipkens.

STATEMENT OF T. P. HIPKENS, DIRECTOR, ASSOCIATION OF REHABILITATION FACILITIES; ACCOMPANIED BY PAT FLEMING, COUNSEL, WASHINGTON, D.C.; AND RICHARD VERVILLE, COUNSEL, WASHINGTON, D.C., ON BEHALF OF THE AMERICAN ACADEMY OF PHYSICAL MEDICINE AND REHABILITATION AND THE AMERICAN CONGRESS OF REHABILITATION MEDICINE, A PANEL

Mr. **Hipkens**. We have prepared a lengthy report which I would like to have introduced into the record after I first give about a 6-minute summary of that, if I may, please.

My name is T. P. (Ted) Hipkens. I appear before you to speak for the Association of Rehabilitation Facilities. The Association, with its State chapter affiliates, represents in excess of 1,000 rehabilitation facilities in the United States. They range from small vocationally oriented or developmental-oriented workshops in rural areas to the most sophisticated comprehensive rehabilitation centers in population centers. Some are units of hospitals, many are free standing; some provide both inpatient or residential care, most provide only daily care and/or service; an increasing number are developing home care and outreach services. The range of services varies in each instance, but the common threads that differentiate facilities from trade schools or employment agencies, or general hospitals, or clinics, or day care centers, is their ability and willingness to deal constructively with the multiple problems of people, categorized as severely disabled. Their comprehensive programs and services recognize that the educational or vocational limitations of their clients are usually aggravated by health problems, by family problems, by other obstacles, and that if ignored, make mere vocational evaluation and training less than effective. Rehabilitation facilities have long since recognized the interrelatedness and interdependence of these obstacles and have designed their programs to assist the client or patient to attack them appropriately. One must understand this uniqueness that characterizes facilities in order to appreciate the key role they play in the rehabilitation of the severely disabled.

This role has been well understood by most of the Federal-State rehabilitation programs and where it has, partnerships for service have been formed that have led to joint effort by the public and private sector towards the rehabilitation of the disabled. The vast majority of facilities are not-for-profit community agencies who have more than matched Federal-State dollars with community-generated funds in this partnership.

We feel this partnership effort should be strengthened and encouraged. With respect to the long-haul direction of the Rehabilitation Act, we would suggest the following minimums:

1. There is a particular need to strengthen RSA's leadership role, not only in administering the State-Federal program but, much more importantly, to mandate its responsibilities for leadership in the development, proliferation, and support of rehabilitation concepts and activities, and insuring the availability of quality services to all who need them—particularly the severely handicapped—no matter the category of disability or the funding source.

2. If the Congressional mandate to serve the severely disabled is more than pious rhetoric, then we must not only stop playing the "numbers game" with total numbers rehabilitated, but must further recognize that the case service funds necessary to meet the mandate will be considerably greater than present levels, as well as recognize a need for some priority shifts in current fund expenditures.

3. If the mandate to serve the severely disabled is to be responsibly implemented, then we cannot ignore the need to build and maintain the capacity to provide rehabilitation services. Such capacity may be quantitative, in terms of expansion of existing facilities or creation of new ones, or it may be qualitative in terms of addition of new programs. The provision of funds for construction grants, facility improvement, training services, for innovation and expansion and for research is absolutely essential to any major improvement in the programs of existing facilities and the creation of new facilities in underserved areas. We also believe there is a need for a program of "full faith and credit" mortgage insurance. Increased capacity in facilities is needed not only for clients of RSA but for the increasing numbers being referred by other sources—Workmen's Compensation,

Medicaid, private insurance carriers, to name a few—and would be in keeping with RSA's overall responsibility for the leadership role in rehabilitation in this country.

4. Our more detailed written testimony contains supporting data and speaks to the need for adequate income for certain categories of clients in sheltered employment, for a change in the mortgage insurance provisions of the present act, among others.

In closing, we would be remiss if we failed to comment on the support provided by RSA and some of our colleagues towards insurance of a high level of accountability for the services we provide. RSA's support of the Commission on Accreditation of Rehabilitation Facilities has resulted in the development of an independent standard-setting and high-performance-demanding body that has contributed materially to the quality and accountability of many facilities across the land. We urge their continuance of this effort.

We would consider it a privilege to participate with you as you consider in detail the technical aspects of rehabilitation services as related to any legislative action to be considered.

We're appreciative of this chance to present our views and would be happy to respond to questions.

Mrs. **Forsythe**. Thank you.

[The prepared statement of Mr. Hipkens follows:]

STATEMENT OF

T. P. Hipkens, Director

for the

ASSOCIATION OF REHABILITATION FACILITIES

Before the

SUBCOMMITTEE ON THE HANDICAPPED

of the

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

Mr. Chairman, I am T. P. Hipkens, Director of the Association of Rehabilitation Facilities which is the principal general national association of medical, vocational, and developmental rehabilitation facilities from throughout the United States. The institutional membership of the Association, through direct membership and membership in state-affiliated organizations, is in excess of one thousand rehabilitation facilities. These comprise a wide range of service organizations, generally non-profit and community based, which operate every conceivable type of rehabilitation program (including medical, vocational, psychological, social, counseling, evaluation, training, work adjustment, extended employment, housing, transportation components, etc.). In most cases these facilities are engaged in a creative partnership with their respective Vocational Rehabilitation agencies, and are interdependent with the state-Federal rehabilitation effort supported via the Rehabilitation Act. The extent of this on-going private-public partnership for rehabilitation is reflected in an increased utilization of facilities (approximately 19% of all VR clients served in F.Y. 1974), and a significant increase in VR case service dollars expended in this effort (approximately $128 million expended in F.Y. 1974).

The uniqueness of the rehabilitation facility, and perhaps the reason for its increasing importance to the rehabilitation effort, lies in four basic operational principles.

- A focus upon impairment reduction in an individualized, comprehensive, flexible, and integrated manner
- Concern for the total handicap of the individual which can be served within a single comprehensive facility and/or a host of specialized facilities with a continuum of health care from medical treatment to vocational preparation and job placement
- Incorporation of follow-up and follow-along as an integral part of the rehabilitation process with attendant accountability
- The provision of rehabilitation in a theraputic and normalizing environment

For these and other reasons, the rehabilitation facility has been and will continue to be the primary source of comprehensive services to the severely handicapped. Indeed it is generally recognized, and has been further confirmed by the findings of the recent Comprehensive Needs Study and the Workshop Study, that rehabilitation facilities play a key role in service provision and evaluation of severely handicapped individuals. Furthermore, rehabilitation facilities are often the major source of training and work adjustment for the severely handicapped and frequently the only source of remunerative employment for these individuals.

Mr. Chairman, the rehabilitation program authorized under the Rehabilitation Act stands as a model for human services delivery which has been expanded, refined, and fine-tuned over the years. It has provided an exceptional vehicle for integrating a working relationship between state rehabilitation agencies, the Federal government, and private voluntary agencies and rehabilitation facilities on behalf of and to the benefit of the handicapped in this country. It is our intention to assert in this testimony that only minor and limited legislative changes are necessary at this time to improve this vehicle. In addition, some minor changes in focus and several additional initiatives appear to be called for. However, it should be fully understood that despite the good intentions of the Congress and the state-Federal facility delivery system, that both the availability and quality of those services available to the severely handicapped in rehabilitation facilities have been greatly hampered by underfunding and fiscal restraint. It cannot by overly emphasized that insufficient support under Title III programs for rehabilitation facilities has curtailed the financial inducement for program development and improvement; if the severely handicapped are to be adequately served there must be an optimum mix of Federal, state, and private dollars to get the job done.

The most significant new data regarding the current effectiveness of the rehabilitation effort in sheltered workshops in this country is contained in The Role of the Sheltered Workshops in the Rehabilitation of the Severely Handicapped recently reported to Congress. The Secretary of H.E.W. in reporting this study submitted his Actions and Recommendations, which we feel fall somewhat short of the decisive action necessary to adequately serve the severely handicapped in the years ahead. In an effort to sensitize H.E.W. to the needs as our membership viewed them, ARF submitted a comprehensive set of comments regarding the Recommendations made in Chapter IX of the Executive Summary of the Sheltered Workshop Study. I have appended these comments for your review and consideration (Appendix A). Overall the Study indicates that workshops are largely undercapitalized, have additional capacity to serve the severely handicapped, and require specific program improvement and development efforts which can only be accomplished through the commitment of additional state-Federal resources. The field itself has been sensitive to the issue of accountability, and through the Commission on Accreditation of Rehabilitation Facilities has attempted to meet the challenge for providing high quality services through independent accreditation standards. However, in the absence of needed resources to assist facilities in their program improvements this effort will prove fruitless. The International Sub-study within the Workshop Study in a rather dramatic fashion demonstrates the extensive and far reaching support that workshops receive in other nations. Those countries that have successful workshop programs provide a high level of government subsidy both to the handicapped individuals involved and through institutional support and "subsidies" to the workshop itself.

There are a number of recommendations we would have which arise both from the Workshop Study, the Comprehensive Needs Study and our own analyses of the VR program for rehabilitation facilities. These include the following:

GENERAL RECOMMENDATIONS:

- There is a need for substantial increases in case service funds and consequent referral of severely handicapped individuals to rehabilitation facilities for evaluation, remediation, treatment, work adjustment, extended employment, etc.

- Efforts should be made to seek a redefinition of the "severely handicapped" on the basis of disability and functional impairment rather than impairment; this should be supplemented by case reporting on a weighted case closure basis, with a provision for extended evaluation periods with the length of case service provision to be determined by functional disability category rather than by an arbitrary limit.

- The provision for demonstrations for Independent Living Rehabilitation (ILR) and for preventative rehabilitation services to children and youth not now eligible under the program

- Stimulating increased high level utilization of rehabilitation facilities when these are appropriate through the encouragement of annual purchase of service contracts and agreements and through joint public-private planning via narrative State Annual Facilities Development and Utilization Plans

- Retention and expansion of authority and funding for Innovation and Expansion Projects within rehabilitation facility auspices

- The provision and implementation of advance funding for all sections of the Rehabilitation Act

- A clear and unambiguous statement within the Declaration of Purpose of the Rehabilitation Act of the partnership between the public sector state-Federal Rehabilitation Program and the private sector

- A re-emphasis on the role of the state facilities specialist and his function as co-ordinator of interagency funding arrangements and agreements

SPECIFIC RECOMMENDATIONS:

- Research and Demonstration - The development of a Design for an Integrated Reporting System for Rehabilitation Facilities to provide on-going data within the Rehabilitation Services Administration on facility utilization, funding, client data, and additional on-going data collection. A Longitudinal Study of client progress and growth within workshop programs to chart systematic rehabilitation changes as related to specific types of rehabilitation facilities and services. The establishment of a Rehabilitation Engineering Center concerned with job development, human engineering, and industrial engineering within rehabilitation facilities and industry.

- Training - The expansion of in-service training, post-secondary education, continuing education, and short-term training opportunities specifically targeted for rehabilitation facility personnel, managers, evaluators, etc. The establishment of an Institute on Rehabilitation Facilities Issues within the Rehabilitation Services Administration to provide an on-going continuing education forum for the analysis and problem solving of issues regarding rehabilitation facilities, and the dissemination of state of the art information to state facilities specialists, facility managers and operators, and regional and central office Rehabilitation personnel.

- The establishment of a full faith and credit guarantee program of Mortgage Insurance for Rehabilitation Facilities and a 3% interest subsidy mechanism. (Draft language for such a program has been submitted to this Subcommittee in hearings held in December, 1975.)

- Increased authorization levels for facility improvement, staffing, and expansion programs including technical assistance, projects with industry, training services grants, etc.

- The establishment of a demonstration program of Wage Supplement for Handicapped Individuals engaged in extended employment in rehabilitation. An expanded position paper is appended expressing the ARF membership view on this issue (Appendix B).

In conclusion, I would like to emphasize the need to strengthen the leadership role of the Rehabilitation Services Administration in its responsibility for the development, proliferation, and support of rehabilitation concepts and activities. This role should be directed at insuring the availability of quality services to all who need them (particularly the severely handicapped), no matter what category of disability, age, or funding source. Furthermore, we would like to encourage the Congress to provide an on-going framework by which the state VR programs can creatively expand and innovate in as flexible a manner as is possible, and to provide a mandate for the delivery of services to the handicapped through the mechanism of the rehabilitation facilities. We commend you for your previous efforts on behalf of the handicapped and encourage you in your future endeavors to strengthen the state-Federal-facility partnership.

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T. P. HIPKENS
DIRECTOR

APPENDIX "A"

August 25, 1975

Dr. Andrew S. Adams
Commissioner
Rehabilitation Services Administration
Office of Human Development
U.S. Department of HEW
330 C Street, S.W., Room 5116
Washington, D. C. 20201

Dear Commissioner Adams:

Dr. Garrett, Executive Director of Research requested that we forward our comments and recommendations regarding the Greenleigh Associates, Sheltered Workshop Study directly to your attention. It is our understanding that comments contained in this letter will be available as a part of the "package" to be forwarded in unedited form to the Secretary of H.E.W. Based upon the total "package" we also understand that the Secretary will then prepare his recommendations which will accompany the study to the President and Congress. We appreciate this opportunity to provide our input and comments, since the Sheltered Workshop Study findings are so vital to the operational future of workshops and to services rendered to handicapped individuals throughout the country. The following comments and recommendations represent the views of the Association of Rehabilitation Facilities, (ARF) which is the voluntary membership association of 650 rehabilitation facilities. Within the ARF membership there are some 565 facilities operating workshops and work activity centers in local communities throughout the United States.

Prior to making direct and specific comments on the substance of the Study it would be useful to make some general comments regarding the overall issues addressed. First, Greenleigh Associates must be commended for the excellent work accomplished in the study given the time constraints imposed and the large number and comprehensiveness of the questions posed by Congress. The enormity of this task is reflective of the lack of ongoing monitoring and evaluation of workshop operations by H.E.W. during the past 10 years. Based on the estimates presented in the Study, almost 209,000 (51%) of the estimated 410,800 clients served by workshops in the reporting year are sponsored under state Vocational Rehabilitation auspices. This represents over 17% of the total of 1.2 million clients receiving services from the State-Federal Rehabilitation Program in F.Y. 1974. In other words, approximately 1 out of every 5 clients served by the program are being rehabilitated

FORMERLY THE INTERNATIONAL ASSOCIATION OF REHABILITATION FACILITIES

within a workshop program. The study has found that "there is a rapidly increasing demand for sheltered workshop services to the severely multiply handicapped and to the mentally retarded and emotionally disturbed, particularly those who have been institutionalized" and that "there does not appear to be any other program that serves such a severely disabled population."

In light of the large number and composition of State VR cleintelle served in voluntary non-profit workshops and the goal of serving the severely handicapped, it is highly appropriate to devote considerable time and effort to developing national policies and priorities for workshops. The creative interdependence of the public-private rehabilitation program is supported through the comprehensive grant provisions authorized under Title III of the Rehabilitation Act of 1973 (PL 93-112) and under Title I provisions for case-service funds. With some minor additions and modifications of the existing programs, there is sufficient authority within the current Rehabilitation Act to promote the service delivery improvements suggested in the Study. However, this will require a sufficient and consistent level of Federal support. The Greenleigh Study clearly and unambiguously provides direction for proposed improvements in workshop operations which can only take place through Federal interest, support and intervention. It should be recognized that a modest level of Federal funding of workshop programs will reap additional private funds which can only strengthen the State-Federal Vocational Rehabilitation effort.

The following comments and recommendations are suggested in the context of the overall purpose of the Study to examine HEW policies regarding workshops as follows:

> "The overall purpose of this comprehensive study will be to provide the Department of Health, Education and Welfare and Congress with objective findings with which to plan and consider future legislation; modify the present approach to sheltered employment and/or training; set more definitive standards for the improvement of services provided by these facilities; or reconsider federal involvement and relationships to workshops."

The following ARF comments will be directly addressed to Study recommendations reported in Chapter IX RECOMMENDATIONS (pages 29-41) in Volume I - Executive Summary.

A. Workshop Roles

Greenleigh Study Findings - Three basic workshop roles were discussed, that of:

a. Rehabilitation agency - Most successful role by contributing to problem reduction.

b. Preparation for competitive employment - unsuccessful in alleviating client income and employment problems; can be enhanced by instituting placement readiness programs.

c. Provider of sheltered remunerative employment - limited success due to low pay levels and limited workflow at low prices.

ARF Comments and Recommendations

The overall study recognizes a plurality of goals and program objectives; although the State V.R. clients represent 51% of all clients served, the remaining 49% are sponsored through other sources. The V.R. goal of competitive placement is just one goal in the range of overall goals which may account for the most successful role achievement of problem reduction. It is quite understandable that workshops show the highest rate of placement, while work activity centers show the lowest rate of placement since the former emphasize placement as a primary goal while the latter emphasize problem reduction. In order to determine on a differential basis the congruence of goals and goal achievement in workshops it is recommended that a comparative organizational study be initiated by RSA which makes an objective/subjective measurement of the roles of workshops utilizing contexual variables, activity variables and performance variables. By this means various organizational models will provide a more precise testing of the Greenleigh findings. Such a study could be funded as a Research and Demonstration Project under Title II of the Rehabilitation Act. With regard to the goal of remunerative employment, several suggestions regarding the support necessary for these activities included wage subsidies (not currently authorized) and support for business activities. (authorized in Facility Improvement Grants, staffing, equipment, etc. under Title III of the Rehabilitation Act.)

B. Funding Priorities

Greenleigh Study Findings - Recommendation for ranked funding priority for case service referral funds and grant funds are:

Placement related program; occupation-oriented program; professional and production staff development; and extended employment support.

ARF Comments and Recommendations

RSA support of case service funds and discretionary grant funds should be based upon seperate strategies and considerations. Direct Federal priority setting appears to be more appropriate for the allocation of the latter. Funding for vocational training services and Facility Improvement Grants under Title III have been decrementally funded and have been gradually reduced during the past 5 years. Greater appropriation levels for these programs are essential if improvements in these programs are to be expected.

At present only a small number of programs benefit from these programs. Authorization for such programs are currently available and appropriations should be requested in order to effectuate positive and widespread change. With regards to case service funding priorities, authority for the support of extended employment do not currently exist within the Rehabilitation Act. It is recommended that HEW seek such authority and additional case service appropriations under Title I to support such programming, since the requirement of extended rehabilitation services in workshops will be necessary to fully serve the severely handicapped. Discussion of program priorities are clearly inadequate without discussing the funding allocations proposed and some comparison of such allocations with past and current levels of funding. The needs for expansion of these programs have been documented by studies within H.E.W., and by A.R.F. facility survey data presented in recent Congressional testimony.

C. The Relationship between Business and Rehabilitation Functions

Greenleigh Study Findings - The functional separation of production (extended) workshop operations and rehabilitation (transitional) workshop operations is recommended since it is suggested that rehabilitation and production goals are inconsistent and non-reinforcing. A number of models between organizations designed to provide a functional separation while coordinating referral mechanisms is recommended.

ARF Comments and Recommendations

The assumption is made that indicators of rehabilitation success and business success are inversely related and not mutually reinforcing and that the functional separation of rehabilitation (transitional) and business-production (extended) workshops are essential for efficient and effective operations. The comparative study suggested earlier would provide more substantive data to effectively test this conclusion. A number of sub-models which demonstrate single-agency service delivery (comprehensive goal agencies) as compared to multi-agency service delivery (single goal agencies) should be examined. Many organizational studies have concluded that multimodel or comprehensive organizations tend to serve each goal separately and all goals together more effectively than single purpose organizations. This principle should be tested out as applied to workshops prior to effecting policies directed at service delivery system alterations or modifications.

D. Workshop Standards

Greenleigh Study Findings - It is recommended that the Federal V.R. program be responsible for transitional and extended workshop standards, and also assume responsibility for requiring accreditation as a prerequisite for the receipt of federal funds as well as for certification by the Department of Labor.

ARF Comments and Recommendations

Current standards for workshops have been developed as a voluntary effort by two major independent accrediting bodies, the Commission on Accreditation of Rehabilitation Facilities (CARF) and National Accreditation Council (NAC). The Council of State Administrators of Vocational Rehabilitation has resolved that state VR agencies require accreditation by 1976. Through this mechanism some 22 states are now requiring accreditation as a prerequisite for continued support by state rehabilitation agencies. In addition the National Policy and Performance Council issued a set of Standards for Workshops. This body was authorized in the 1965 VR Amendments (PL 333) to advise the Secretary with respect to policies and criteria for Vocational Training Services Grants, recommend policies for workshop improvement and other duties. This body was phased out of the current Rehabilitation Act; it is recommended that new authorization for this peer review mechanism be sought by H.E.W. By this mechanism, H.E.W. can assure standards are developed for grant programs and operations which reflect the state of the art by the field. As much as possible, standards should be based on a voluntary basis with financial incentives for accreditation rather than a punative approach.

E. Client Incomes

Greenleigh Study Findings - It is recommended that action be taken by H.E.W. to improve the income of disabled workshop clients through income supplementation and through assisting in the improvement of business practices.

ARF Comments and Recommendations

Action should be taken by H.E.W. to seek authorization for a wage supplementation(subsidy) program on a demonstration basis; in addition, action should be taken through modifications in SSI regulations to allow for relief from reduction in SSI benefits as a consequence of the wage supplement program. A mechanism for this process is proposed in the Greenleigh recommendation to provide assistance to workshops for technical assistance, training and staff development, and management assistance in workshop business operations. Authority for Facility Improvement Grants, Staffing, equipment and technical assistance are currently available in Title III and should be funded on a adequate basis to assure widespread dessemination. Currently, less than 4% of the funds authorized for the training of rehabilitation personnel are devoted to those personnel employed in workshops. In order that parity exist, funding for this category of training should be increased to no less than 20% of all funds given the current utilization rate of workshops for services to VR clients. The dual approach of a wage supplement and support for the business-production activities of workshops will provide a quantum jump in client incomes. It should be noted that the International Sub-study indicates that in many nations throughout the world wages in subsidized workshops are in near parity to those paid in competitive employment. Such a situation can only come about in this country through a strong commitment and consistent supplement and support of client incomes.

F. Work Activity Centers

Greenleigh Study Findings - Since Work Activity Centers show lower levels of effectiveness both in rehabilitation and business aspects, and because of minimal client earnings a recommendation is made to establish a production criteria cut-off for work activity center intake. Greenleigh conclusions suggest the functional separation and referral mechanism consistent with that recommended for extended and transitional workshop operations.

ARF Comments and Recommendations

According to statistical findings in the universe of 1700 certificated workshops almost half are work activity centers; 25% of the Greenleigh sample were free standing work activity centers and overall 6[illegible]% of the sample operated work activity programs. Approximately 45% of all clients served on a daily basis are served in work activity center programs; 40% of the clients served are sponsored under VR auspices. Although the lowest wage levels reported were paid in work activity programs, no measurement of client productivity was reported by Greenleigh to substantiate the establishment of an arbitrary 30% productivity level for participation. A more detailed analysis of the productivity levels of work activity clients, their mobility to regular work programs and the total numbers of individuals involved and displaced should be undertaken. Such a study should be provided under the longitudinal client study proposed by Greenleigh. In addition, consideration of the community capacity to provide alternative programming should be explored to determine the extent and availability of day activity and non-work oriented and related programming. In the body of the report it is recognized that work activity centers provide a means for achieving improved work functioning with limited possibility for competitive employment. A major rationale for the services provided by work activity centers is the provision of a normative environment and the opportunity to marginally improve work functioning. Although the average annual placement rate is 9% considering the severity of handicaps served, this appears to be significant enough to warrant further study before proceeding with the policies proposed in the study.

G. Reporting and Monitoring

Greenleigh Study Findings - It is recommended that a comprehensive statistical system be initiated on all clients served in workshops as well as operational data.

ARF Comments and Recommendations

The proposed monitoring and reporting system is strongly supported by ARF. The data system envisioned will allow for planning, management and information feedback which will assist HEW in developing governmental programming, budgeting and administration and will assist the field to monitor the state of the art in providing services through workshops. The paucity of on-going systematic data is reflected in the immense number of questions emanating from Congress for which no immediate data is available (even subsequent to the Greenleigh Study).

H. The Matching-Fund Formula

Greenleigh Study Findings - It is reported that the State VR personnel state that there is a severe shortage of funds for the development and operation of facilities and that needs for expanded facilities have been expressed. Greenleigh recommends a federal matching formula change from 80/20 to 90/10 to maintain past levels of funds for development, improvement and operation of facilities.

ARF Comments and Recommendations

It is assumed that the recommended change in the matching formula relates to grant programs authorized under Title III. The current program for Vocational Training Services, Special Projects and Demonstrations and Facility Improvement Grants already authorizes the 90/10 formula. Technical assistance is already authorized at 100% Federal funding with no match required. However, the current formula for case service funds including those for services in workshops are funded on the 80/20 formula base. ARF recommends that the Title I program be amended to authorize a 90/10 incentive to states for funds utilized for case service funds in facilities; in addition the current authorization for innovation and expansion projects under Title I should be funded to a greater extent, and a priority be placed on the use of such funds in workshops for the expansion of services to the severely handicapped. Programs already authorized for construction, staffing, project development and mortgage insurance should be funded at a sufficient level based upon needs which have already determined by H.E.W. Full and adequate funding of all of the programs which are authorized but for which there are inadequate or no appropriations is essential if the recommended improvements in workshops are to be instituted.

I. Dissemination of Information

Greenleigh Study Findings - Inadequate communications between RSA and workshops is highlighted and it is recommended that RSA information dissemination be improved.

ARF Comments and Recommendations

> The need for high quality interaction and communications between workshops and RSA's central offices and regional offices has been recognized by ARF for some time. ARF recommends the reinstitution of the State Rehabilitation Facilities Specialist Exchange which was published by RSA for several years; a quarterly facilities newsletter detailing program developments should be disseminated by RSA directly to facilities and facilities specialists. The ability of State Facility Specialists to disseminating information on programs is essential. ARF strongly recommends the reserve of Training funds to allow for national and regional information dissemination meetings for these key individuals. In addition, HEW should allocate funds to see that the results of the Greenleigh Study are available to the field in a readable and meaningful format.

J. DVR Case Closure

Greenleigh Study Findings - It is recommended that a DVR status code be assigned to extended sheltered employment as well as the maintenance of ongoing responsibility for clients placed in workshops.

ARF Comments and Recommendations

> ARF is in support of this recommendation, since at present no accurate record is maintained by HEW as to the number of referrals made to workshops by the State VR programs. Authorization for the payment of case service fees for extended employment services in workshops should be requested by HEW. Since in its definition of "severe handicap" the Rehabilitation Act recognizes the need for "multiple services over an extended period", such extended evaluation and adjustment should be authorized. The current VR regulations allow for an 18 month "extended evaluation." This "extended evaluation" period should be extended to 36 months, recognizing the data collected by Greenleigh regarding the length of rehabilitation programming necessary in workshops to serve the severely handicapped. That is, the State VR agencies should be allowed to provide for the support of extended rehabilitation efforts in workshops with the proper monitoring of such efforts.

K. Affirmative Action

Greenleigh Study Findings - The mechanism of affirmative action should be vigorously implemented in order to promote employment opportunities for the handicapped in the competitive labor market.

ARF Comments and Recommendations

ARF strongly supports the principles engendered by affirmative action provisions (Section 503) in the Rehabilitation Act. Although the Department of Labor has jurisdiction over regulations and administers enforcement of this program, H.E.W. should take the initiative to recommend certain implementation actions. These actions should include recommended regulation changes to encourage industry to fulfill affirmative action principles through sub-contracting business to workshops; clear cut definition of handicapping conditions as certified through workshop/rehabilitation facility programs with funding for such determinations; the maintainence of a viable individual complaint oriented system of enforcement; and the mandatory response to complaints by the Department of Labor when legitimate cases of discrimination in the employment of the handicapped are presented.

L. Diversification of Work

Greenleigh Study Findings - The need to expand the quantity, quality and diversification of industrial and training opportunities in workshops is supported by the study findings.

ARF Comments and Recommendations

In terms of H.E.W. initiative designed to promote the business functioning and staffing expertise of workshops, a number of other policy determinations would be helpful in promoting the diversification and increase in work available in workshops. Authority under the Facility Improvement Grant Program allows for grants to organizations or combinations of facilities. Such funds should be made available to promote contract procurement consortia, product development efforts and for developing workshop marketing expertise. H.E.W. should also take action to provide procurement advocacy in the granting of contracts for goods and services to workshops under the provisions of the Wagner O'Day Act. In addition, technical assistance should be provided to the states in setting up state set-a-side legislation for purchase of products and services from workshops for the handicapped.

M. Barriers to Employment

Greenleigh Study Findings - It is recognized by Greenleigh that the success of workshops in placing handicapped individuals depends largely upon the general economy and societal integration and acceptance of the handicapped as workers.

ARF Comments and Recommendations

ARF supports this notion and would like to emphasize the fact the the Greenleigh Study was conducted during the most severe economic downturn since the depression. The data derived was no doubt influenced by the reduction in subcontract opportunities available to workshops; workshop operations tend to be countercyclical to the general economy. That is, when a general economic downturn occurs, there is greater difficulty in obtaining subcontracts, intake increases and placements are reduced. The extent of the effect of stagflation and of high unemployment levels can be seen in the Employment Service placement decline during the base period in which the study was conducted. During this period Employment Service placements dropped by 5% due to a decline of 12% in job requests by employers. Therefore, the data obtained by Greenleigh should not be assumed to be standard baseline data due to the severe decline in the general economy. ARF applaudes the past efforts of H.E.W. to conduct the legalistic, persuasive and educational techniques designed to "mainstream" the handicapped in the workforce. Activities such as the President's Committee on the Employment of the Handicapped should be strengthened and reinforced to assist in improving the societal attitudes towards the working handicapped.

N. Recommendations for Further Research

Greenleigh Study Findings - A study of workshop business practices, a study of the impact of wage subsidies, a study of homebound work, and a study of the process by which workshops become producers are recommended by Greenleigh.

ARF Comments and Recommendations

ARF strongly supports the continued and on-going interest of H.E.W. in monitoring and assessing the workshop program. In addition to the proposed studies, H.E.W. should develop a comprehensive policy statement which examines the question of workshop utilization, grant funding and case service support and which details the long term goals of the program within H.E.W. Without such policy direction, the workshop program will not be able to reach the large unserved severely handicapped population in need of their services. Only through the on-going interest, involvement and H.E.W. support will workshops achieve their potential for providing exceptional services to the handicapped.

Due to the wide ranging importance and implications of the Greenleigh Study for the future operations of workshops, it was felt by ARF that the Greenleigh recommendations should be reviewed and commented upon in a point by point fashion.

This independent study of workshops addressed the question of "whether sheltered workshops are playing an effective role in the rehabilitation, training and placement of severely handicapped individual." It cannot be too strongly emphasized that the findings indicate and conclude "that workshops yield a positive benefit to society for the money invested." In the ARF comments and recommendations there are a number of suggestions which will entail new authorization, appropriations, expenditures, and policy initiatives by HEW, OHD and RSA. It is hoped that such suggestions are seen in the light of seeking to improve the rehabilitation of the handicapped in the most efficient and effective manner - through employment and rehabilitation services in workshop programs. ARF pledges itself to work through its board, staff and general membership to support the efforts of HEW to improve and refine the program. The basic framework currently exists. With the implementation of the recommendations contained in the Greenleigh Study, the goals of the state-Federal Rehabilitation Program for services to the severely handicapped can only be reinforced and strengthened.

Yours sincerely,

Charles S. Richman

Charles S. Richman
Director, Product Development

CSR/lr

Mrs. **Forsythe**. Mr. Verville.

Mr. **Verville**. Mr. Chairman, this testimony is presented on behalf of the American Academy of Physical Medicine and Rehabilitation and the American Congress of Rehabilitation Medicine. The American Academy of Physical Medicine and Rehabilitation is a medical specialty society of those physicians specializing in physical medicine and rehabilitation, of which there are approximately 1,000. The American Congress of Rehabilitation Medicine is a multidisciplinary organization of physicians, nurses, social workers and therapists specializing in rehabilitation medicine, and includes some physicians who are pediatricians and internists, for example, who spend a substantial amount of their time dealing with rehabilitation medicine. The American Congress has approximately 2,500 members.

Our testimony deals with three issues. The three issues are research, training, and State reorganizations affecting the autonomy of the vocational rehabilitation program. Most of our testimony will be on research because the other issues will be discussed at some length by other organizations. Research is a very important program for our two organizations because many of the members of these two organizations administer or provide care in institutions which do substantial rehabilitation research and innovation. Many of these institutions are research and training centers for rehabilitation or rehabilitation engineering centers. In our view, these centers are not only in the forefront of research with regard to improved services for the disabled, but are also major institutions for the provision of care to severely disabled individuals.

At present, we believe that there is not a coherent research and evaluation strategy being followed by HEW. It is essential to have such a strategy if rehabilitation research is to be effective. That strategy must have sufficient manpower to develop and implement it, and must be approved from the highest levels in HEW, down through those offices which are responsible for dealing with research in the central and regional offices. We have sensed a failure of commitment to research strategy with the result that differing signals go out from differing parts of HEW with regard to priorities, methods of research, and the management of the research program.

In the development of this strategy, it is absolutely essential that there be full utilization of scientific experts from the field of rehabilitation and related fields. Such experts should be used to help shape the strategy and to participate in its implementation. While peer review is required by rehabilitation regulations for research and training programs, no peer review system has yet been established to review research proposals. Nor has there been maximum use of experts from the field in the development of a research strategy. The result, in many cases, is that priorities do not relate to merit and feasibility. Peer review from the point of rehabilitation service management, scientific management, and Government agency management is critical and is not satisfactorily achieved by ad hoc arrangement or by a few "experts" known to RSA helping out once in a while. There must be a systematic use of a broad base of scientific experts both in the development of a research and evaluation strategy and in the peer review system to review particular applications. Without such a system, it is very unlikely that the most critically needed research will be carried out first with available funds.

We would also like to stress that peer review does not necessarily mean physicians engaged in laboratory research. Physicians and others participating in rehabilitation research are generally not participating in solely a laboratory effort. They are participating in applied research which may have basic elements, but which is ultimately related to the needs of patients. This kind of peer system can benefit from association with physicians related to community practice, public health, and researchers involved in engineering, systems design, and economics.

It is critical that a research and evaluation strategy for rehabilitation fix priorities which are based on the needs of the disabled and the scientific feasibility of moving ahead in the particular areas involved. One of the worst things which happened in the research program in the past few years have been the constant shifting of priorities. These priorities have seemed to depend on much more than the need and scientific merit. In addition, mainly because of the lack of manpower in the research program, the review of applications tends to focus on the number of proposals that a research and training center, for example, may submit rather than the quality of the proposals.

Another very important element in a research and evaluation strategy is the definition of a clear role for the research and training centers. The research and training centers provide a major segment of the Nation's rehabilitation research resources and they also provide a significant means by which research utilization can be expedited. The centers are also the major source of advancement in the training field for it is in the research and training centers that professionals become acquainted with the most advanced methods of treatment regarding the disabled. The research and training centers are clearly related to the priority in the rehabilitation amendments of 1973 regarding the severely disabled since the research and training centers mainly deal with the problems of severely disabled individuals. These individuals receive care in the research and training centers also. Thus, in many respects, the research and training centers need to have a clear role defined in the research and evaluation strategy and also a clear role in the general strategy for the rehabilitation program.

Finally, a coherent research and evaluation strategy for rehabilitation must focus on the relationship between RSA research and research carried on through other programs in HEW. If the problems of the disabled are to be resolved, it will require multiple research disciplines working in collaboration. Certainly, the research strategy should make clear which agencies have primary responsibility for which problem areas, and what kind of coordination and communication must take place between such agencies. In many respects, this point argues for a research strategy which is ultimately supported by the Secretary of HEW and which focuses on a number of different efforts within HEW both in the National Institutes of Health, and in the Health Services research and demonstration program.

What is rehabilitation research and where does it fit within HEW?

For many years there has been a serious problem within HEW as to where rehabilitation research was done. Clearly, there is a research program within the Rehabilitation Services Administration. This research program is a rehabilitation research program. Other forms of research are carried out dealing with disabilities in the National Institutes of Health. Examples include the research done on neurological disorders and strokes. At the Cancer Institute, research is being done into rehabilitation of cancer patients. The major problem which has arisen in the past, however, is the failure to focus these two efforts and have them coordinated. The result has been that the research programs in the universities such as the research and training centers for rehabilitation have often found themselves in the middle, and ultimately had many important projects dropped through the cracks between programs. The National Institutes of Health would generally refuse to support medical rehabilitation research because it was basically applied and service related research while RSA continues to refuse to support basic research. As a result, many important rehabilitation research proposals which essentially relate to applied research and improved treatment and services for the disabled but also include substantial basic research elements are never supported by RSA or NIH. This kind of problem must be eliminated and perhaps the research and evaluation strategy if adopted by the Secretary of HEW could help solve some of these problems.

One of the problems that runs through all of the problems we will mention in this proposal is the lack of research staff in RSA to conduct a significant research program. The staff resources in RSA are, we understand, substantially less than the staff resources were in 1967. Yet, the program has many more elements and requirements than it did then. Now, the research program is involved with research and training centers, rehabilitation engineering centers, research regarding the severely disabled, and research in the kidney field.

With these few staff resources, it is no wonder that there are substantial problems with the development of a research strategy and its implementations. Problems also arise with regard to utilization of research results because there are too few resources to learn about what has been accomplished and transmitted to the field. A vicious cycle is created since a program with few staff resources dwindles and receives a bad image, and a program which is dwindling with a bad image will not get good people to enter it.

One of the greatest shortcomings of the existing research program is its failure to utilize what has been achieved. One of the best examples lies in the field of technological development. There have been major improvements through research in the development of technologies including devices for the disabled. Yet, there is not sufficient funding to do pilot demonstrations of these projects or to do any pilot commercial productions of these products. In addition, there are absolutely no funds to support the subsidy that may be needed to get these products made on a commercial basis and distributed given the fact that they are new and may present some risk to industry. Examples of the kinds of devices that have been developed through the research area and are ready for further development and marketing are sensory feedback devices for prosthetic limbs and environmental controls such as oral controls based on the use of air pressure for quadraplegics.

In addition, there is not enough support for methods of utilizing medical rehabilitation and vocational rehabilitation research results. What is needed in the way of an improved utilization program regarding rehabilitation research generally is more support for conferences and other methods for sharing information between researchers. This is one way in which research advances can be achieved through researchers finding out what others are doing. It is also another method for coordinating research so that duplicating efforts do not take place. Additionally, funds ought to be used to transmit through conferences and writings research achievements which the scientific community believes are important and ready for dissemination into the field.

The system for transmitting information research is now counterproductive. That system includes voluminous reports which have as their focus audit requirements. The reports require information mainly to show that expenditures have been for items that are approved items. These reports are not used to transmit results of research. There is some information regarding research activity and results but that seems buried in the information regarding audit needs. In addition, it seems that these reports are never read and there is constantly a flow of requests for further information, most of which has already been provided in one form or another. This kind of reporting takes up enormous time and has no affect on the transmission of information regarding the quality of research and research results.

We would urge that much more money and attention be spent on transmitting through various means including conferences and written documents information on important research results and limiting the time spent on reports for audit purposes. This is another area where peer review is important because we need experts from the field to determine what results are important and ready for dissemination.

A very serious problem exists with regard to the training of specialists in medical rehabilitation. Studies done for the Commission on Rehabilitation Medicine (see Bulletin No. 14) and by the Division of Medicine of the Health Resources Administration, "Physician Specialty Distribution: 1975" both show that there is presently a shortage of supply of specialists in physical medicine and rehabilitation. According to both reports, if training is continued at present levels, and these reports speak as of 1972 and 1975, there is likely to be a sufficient supply in the mid-1980's. However, training support is dwindling with requests for fiscal year 1977 $8 million below those for fiscal year 1976 which were at a level of $28 million. In addition, we envision a possible problem because of provisions in health manpower legislation that may limit the influx of foreign medical graduates and focus residency programs essentially on primary care. As mentioned in the HEW study and the Commission on Rehabilitation Study, physical medicine and rehabilitation depends to a substantial extent on foreign medical graduates and any limit on the influx of foreign medical graduates will exacerbate the shortage problem that exists.

If the focus of residency programs in this country is basically on the shortage of primary care specialists, the shortage in the field of rehabilitation, possibly acerbated by controls on foreign medical graduates, will become a very serious problem. We would urge that any limits on foreign medical graduates be phased in so that existing shortages in specialties like physical medicine and rehabilitation are not exacerbated. We would also urge that the Congress focus not only on primary care, but also on the area of specialty manpower to deal with the chronically ill, disabled, and elderly. Since many of you are also on the Health Subcommittee, we would urge your attention to this issue.

In recent years there have been a number of reorganizations in various State governments that have adversely affected the autonomy of the vocational rehabilitation agency, or seemed to threaten that autonomy. We are concerned that such efforts may adversely affect the quality of services provided the disabled and that, in the long run, the rehabilitation program may lose its visibility and focus. We think it is incumbent upon the Department of Health, Education, and Welfare in allowing such organizations to take place to assure itself and the public that such reorganizations will, or are reasonably likely to, improve the delivery of services to the disabled. We do not believe that HEW has developed any criteria for evaluation of such reorganizations along these lines, nor do we think that HEW has any information at present on the basis of which to say that such efforts would be likely to improve the delivery of services.

We are very happy to have the opportunity to testify before this subcommittee whose work we much admire. Your efforts mean much to the disabled and those professionals who work in the field of rehabilitation, and we thank you for your efforts and for this opportunity to present our position to you.

Again, thank you very much.

Mrs. FORSYTHE. Thank you very much.

We do not have any questions at this time.

Do you have any, Mr. Andrews?

Mr. ANDREWS. No, I do not.

Mrs. FORSYTHE. Thank you very much for your testimony.

Next we will have Council of Rehabilitation Counselor Educators, Dr. Daniel McAlees, but we do want to go off the record for one moment.

STATEMENT OF DANIEL C. McALEES, PH. D., PRESIDENT, COUNCIL OF REHABILITATION COUNSELOR EDUCATORS, DEAN OF COLLEGE OF SPECIAL EDUCATION AND REHABILITATION, UNIVERSITY OF NORTHERN COLORADO, ACCOMPANIED BY DONALD C. LINKOWSKI, PH. D., ASSOCIATE PROFESSOR OF EDUCATION, CHAIRMAN, DEPARTMENT OF EDUCATION, THE GEORGE WASHINGTON UNIVERSITY, WASHINGTON, D.C.

Mr. McAlees. Mr. Chairman, my name is Daniel McAlees, and I am president of the Council of Rehabilitation Counselor Educators. The Council of Rehabilitation Counselor Educators (CRCE) is a national organization made up of the colleges and universities with rehabilitation counselor training programs. We are an affiliate of NRA.

We would like to take this opportunity to thank the committee for the fine work which it has done with regard to improvements in the Rehabilitation Act of 1973.

In particular, we believe that the Rehabilitation Act as amended represents major and important improvements. We are very supportive of the requirements in the act regarding the establishment of a priority for services to the severely disabled.

We also believe that the requirement of individualized plans and consumer participation in the development of such plans are important and represents proposals which should have a positive effect on the responsiveness of the rehabilitation program to the needs of the disabled in the future.

Also, the 1973 Rehabilitation Act as amended in 1974 established a separate title for rehabilitation research and training and established a clear congressional interest in those two facets of the rehabilitation program. We think that these changes were major improvements and have helped to keep the research and training programs operating at times when it appeared that they might both be substantially dismantled, particularly the training program.

We know that you will hear from many other groups regarding the provisions dealing with the severely disabled, including the provisions requiring individualized plans and client participation in the development of such plans. We will, therefore, focus on the part of the Rehabilitation Act which most directly bears on us, the training program.

The rehabilitation training program is by far the major course of support for the rehabilitation counselor education programs throughout the country. While there is some support from State governments, and from university funds, the Federal support is absolutely essential to the continuation and improvement of these programs.

The first issue that we would like to raise with regard to the training program is the issue of advanced funding for all rehabilitation programs in section IV. The stated purpose of the advanced funding provision was to provide adequate notice of funding available under the act to the States and to the institutions receiving funds.

In the case of education programs, advanced funding is also absolutely essential to the smooth and efficient operation of education programs. Unfortunately, the authority in section IV to advance fund has not been utilized by the administration for any rehabilitation programs, to our knowledge.

We have formerly requested that the Rehabilitation Services Administration utilize advanced funding for training programs in particular, but have had no success with our requests.

We therefore urge this subcommittee to make known to HEW the importance which it attaches to advanced funding, at least in the training field.

With the advent of a new fiscal year beginning October 1, advanced funding becomes essential for educational programs. Colleges and universities begin their academic year or on about September 1 of each year.

Since the fiscal year will begin now one month after the academic year begins, training funds cannot be obligated to a university or college until after the academic year has begun. This makes the operation of a program impossible. A college or university cannot tell faculty that their contracts will have to wait until after the academic year begins because the funds will not be received until that time.

Likewise, students in need of scholarships and stipends cannot be admitted to academic programs on the assumption that the funds which will provide their scholarships will come through after the academic year begins. Students who must have such scholarships because of their low incomes and their family's low incomes cannot take this risk and will inevitably turn to areas of specialization where funds are made available to them before the school year begins.

It makes no sense as a matter of Federal policy for students to select areas of specialization based not on their career desires nor on manpower needs for the country but rather on whether programs are advanced funded and therefore make money available before other programs.

If HEW is not willing to commit itself to advance fund at least the training programs, we believe that Congress may have to change section IV to make advanced funding mandatory, at least as far as training programs are concerned.

While advanced funding may sound like a very technical matter, it is of great importance to the education programs, perhaps of more importance than the particular level of funding. As argued above, without advanced funding, we may not be able to operate our programs.

The second problem which we would like to bring to your attention is the problem of funding for training programs. We realize that this is not the Appropriations Committee and that you cannot provide appropriations for our programs, but we do believe that you should be made aware of the problems with funding levels so that you could make your views known to the Appropriations Committee. We also think that you should be aware of the way in which funds are used.

First, for fiscal year 1977, the administration has requested $20 million. They show this $20 million as being only $2 million less than the level of funding for fiscal year 1976.

In fact, $20 million represents a cut of approximately $8.8 million below the fiscal year 1976 level because of the actual level of expenditures in fiscal year 1976 includes $6.6 million of funds carried forward from fiscal year 1975 as well as a $22.2 million appropriation for fiscal year 1976. In order to keep the funding level of training programs for all disciplines at a constant level, there should be an appropriation of $22.8 million; that is, unless HEW is carrying forward money from fiscal year 1976 into fiscal year 1977.

This brings us to a second problem. For the past few years it has been almost impossible to determine what the level of expenditure by HEW for rehabilitation training is. Money from prior fiscal years is constantly being carried forward. The other side of that coin is that money appropriated for a given fiscal year is often not spent in that fiscal year which seems contrary to the intent of the impoundment provisions in the Budget and Control Act of 1973.

We hope that this subcommittee will make known to HEW its conviction that the training program must be kept at least at a constant level of funding. There is no information that manpower needs have been satisfied.

HEW should also be discouraged from the constant failure to spend money in the fiscal year in which money is appropriated. The advanced funding proposal which we have made in this testimony would help solve this problem.

The final point which we should like to make to the subcommittee is the problem which we perceive in the management of the training program by the Rehabilitation Services Administration. There is much ambiguity as to the role played by the central office and the regional offices.

As a result, there seems to be no uniform, national standards for training programs in any disciplines. Also, this failure to clarify the roles of central and regional offices has severely undercut the effectiveness of the peer review system which was established for training in fiscal year 1975.

While we are not arguing for a totally centralized system, we do believe that there should be a national standards established for training programs and national policies established for training programs.

Regional offices should make grants within those standards and regional offices may well be much more knowledgeable about which grant applications in particular regions meet given standards.

However, there seems to be no reason why the standards for the program should vary by region or State. This is particularly true once the training program is really a national one and not a regional one. This seems to be true in all discipline supported through the rehabilitation training program.

We know that in rehabilitation counseling, which is often thought of as the most regional of programs, that the personnel we are educating in our institutions often go to other States for their employment in the rehabilitation program.

It is clear, also, in the field of rehabilitation medicine, that residents trained in physical medicine and rehabilitation at medical schools in the few institutions in the country with physical medicine and rehabilitation training programs end up providing services throughout the United States.

We do not think that this subcommittee necessarily needs to legislate in this area, but we do think that it should make known to the Rehabilitation Services Administration its view about the need for national standards and relative roles to be played by central and regional offices in the training programs.

We also hope that you will endorse the continuation of the peer review system which we believe will become more effective as the relative roles of the central and regional offices are clarified.

We think that the establishment of national standards for rehabilitation programs, utilizing the peer review system, will help make the training program more responsive to the rehabilitation services program. Training and education programs are key elements in implementing the priority on the severely disabled.

Counselors and other professionals in the rehabilitation system must be made more aware of the new direction of the rehabilitation program and of the particular needs of severely disabled people. Other new aspects in the Rehabilitation Act of 1973 must be incorporated into training and education programs such as the consumer thrust represented by the individualized written plan requirements and the client assistance projects.

Also, the civil rights provisions in sections 501, 502, 503, and 504 need to become a much larger part of the curriculum in education programs for all rehabilitation specialists. The development of national standards can help in this effort.

The central office staff responsible for rehabilitation training are far, far too few—three professionals—compared to other areas of Rehabilitation Services Administration. Additional staff positions are needed to accomplish the development of uniform standards and to monitor them. We do not wish to appear critical of individual staff members within RSA, but rather would like to point up the need for additional professional positions to administer the training program.

In 1966 there were 10 professional positions in the training staff of RSA. Today there are just three, although there has been a significant increase in the number of training programs over the past 10 years.

I should be glad to answer any questions that you may have. The Council of Rehabilitation Counselor Educators thanks you very much for this opportunity to testify, and, once again, we commend you, Mr. Chairman, and this subcommittee, for the fine work it has done for the disabled and the rehabilitation program.

Thank you.

Mrs. **Forsythe**. Thank you very much, Dr. McAlees.

Mr. Linkowski, do you have something you want to add at this time?

Mr. **Linkowski**. I would like to state that tomorrow the National Rehabilitation Counseling Association will present its testimony, and in the written form of that testimony are some statements relative to training.

I believe that the Council of Rehabilitation Counselor Educators are supportive of what will be presented by NRCA.

Thank you.

Mrs. **Forsythe**. Thank you.

I have just one brief question that comes to mind after listening to all of the testimony that has been presented thus far in these hearings.

What is your organization doing—and I do not know whether it is their responsibility, to influence the curriculum and the training of rehabilitation counselors?

For instance, one witness we had today said that there is a lack of communication between a rehabilitation counselor and a hearing impaired client.

Has your organization given any thought to perhaps making part of the curriculum a course in total communication?

Mr. McAlees. To answer that specific question, we have not made a determination at this point in time, that a course in communications would be a part of every curriculum of every rehabilitation program.

We are doing three things in terms of curriculum revision or improvement of curriculum and development.

The first one we are cooperating with, and are supportive of, is the National Commission on Rehabilitation Counselor Certification, which is evaluating the performance and competencies of rehabilitation counselors throughout the United States. Based on the feedback we will get from that effort—and there have been over 10,000 counselors participating now in a testing program—we will use that to influence our thinking on the nature of our curriculums, and our deficiencies as well as strengths.

The second thing is that we are cooperating very closely as a participant in the development of a national accrediting council for rehabilitation counselor education programs. It has as its sole purpose the evaluating and accrediting of graduate training programs in rehabilitation counselor education.

The third thing that we are doing is sponsoring a national conference on graduate rehabilitation counselor education curriculums. All of the graduate rehabilitation counselors of education will meet together to discuss the very kinds of recommendations and issues that you have mentioned.

What their final determinations will be, and how they will be implemented I cannot speak for at this time, but that is being studied.

It is the type of question we are looking at at this point in time, and we are very interested in revising curriculum, and updating, to make sure it is current, and that it does serve the needs of the counselor who needs this sort of information.

Mrs. Forsythe. Another area is the severely handicapped. What is your organization doing to influence the curriculum that would prepare rehabilitation counselors to counsel severely handicapped individuals, particularly since you are going to have a conference soon, and this might be something else that should definitely be on your agenda.

Mr. Linkowski. I am on the planning committee on that conference and the theme is on the rehabilitation of the severely disabled.

Mrs. Forsythe. If you could forward some information about your plans we would get a lot of information that would be useful to this subcommittee.

Mr Linkowski. Are you aware that there is a funded rehabilitation counseling program at Gallaudet College for hearing impaired. And at George Washington University we have cooperated very closely with them with students taking the communication courses at Gallaudet?

Mrs. Forsythe. Yes, we are aware of the programs at Gallaudet; however we are thinking more of the curriculum in all of the training programs, since you are talking about national standards, I wonder if it should not be something that should be included in all programs, in order to meet the needs of the clients?

Did you have a question, Mr. Andrews?

Mr Andrews. Yes, I do have one.

In view of the recent cutbacks, or the recent glut, I should say, of teachers in general, would you care to comment, both in terms of the number of rehabilitation counselors needed, and in the levels of training needed in view of that present glut in the overall educational field?

Mr. McAlees. From our point of view we would not equate a surplus of elementary education teachers, or even secondary teachers, or history, art, social studies, whatever, as a surplus of personnel in that area with a surplus, or even an availability of manpower for delivering rehabilitation services.

The nature of training, competencies and skills, and knowledge possessed by a teacher is quite different from those knowledges and skills and competencies required by a rehabilitation counselor.

Mr. Andrews. Where does a rehabilitation counselor normally receive those competencies in his training?

Mr. McAlees. Rehabilitation counselors would normally receive the competencies in any university rehabilitation counseling training program, and they would then be further developed in the agency during field work and actual practice in the field.

Mr. Andrews. And you feel there is no implication then for rehabilitation counselor training in the recent cutback or at least static situations of teacher training in general?

You see no risk to rehabilitation training programs in universities?

Mr. McAlees. I see no risk to rehabilitation training programs, or a surplus of trained counselors.

I do see a risk of rehabilitation training programs if there were a surplus, or an anticipation, meeting the needs for trained rehabilitation counselors.

Of course, with the rehabilitation act, and with the evidence of needs of the severely disabled a need for highly trained counselors has been increased rather than diminished. In order to deliver quality kinds of work in the service required by the handicapped population, there is need for more qualified counselors as opposed to the past. I think I can answer your question two ways.

One, in rehabilitation we are concerned with a quality-level service in meeting the needs of handicapped individuals. We do not want to do that by giving them a leftover person from the teaching field. We do not feel that that is the type of quality-service delivery that an individual deserves.

Second, in the field of education itself there is not a surplus of teachers.

There is a surplus of teachers in specific areas, and if I were to do something with those elementary teachers or secondary teachers that are left over, I would build upon the skills and knowledges that they already have in education and retrain them to serve the educational handicapped, and the learning disabled, emotionally disturbed, crippled, deaf, and blind child in the public school programs where there is still a major shortage of those persons, and you could build competent skills in those areas.

Education is not in a glut situation globally, but only in specific areas. I think it would be wiser to utilize those persons in that area where they are already prepared at least partially.

Mr. ANDREWS. Therefore, it is your opinion that there is a great demand for both a greater number of counselors, and more training for counselors, is that correct?

Mr. McALEES. There is a great need for more qualified, trained rehabilitation counselors.

There is availability of bodies for jobs in any rehabilitation setting. We are in a situation in our economy where we have too much unemployment, but the availability of a person who is not trained or qualified is not serving the needs or the intent of Congress in delivering quality service.

There is a great need for trained, competent rehabilitation counselors to serve a particular unique need of the severely handicapped in the rehabilitation centers, yes, sir.

Mr. ANDREWS. I think I understand your point. Thank you very much.

Mrs. FORSYTHE. Thank you very much for your testimony.

Off the record.

[Discussion off the record.]

Mrs. FORSYTHE. Back on the record.

I believe that our last witness is Mr. Dean Phillips, the Goodwill Industries of America.

STATEMENT OF DEAN PHILLIPS, PRESIDENT, GOODWILL INDUSTRIES OF AMERICA, WASHINGTON, D.C.

Mr. PHILLIPS. I am sure we must be the most welcomed witness of the day as far as the staff is concerned, but with some virtue of being last, because maybe we are most appreciated.

I would like to acknowledge the presence in the audience of Mrs. Jane Wirtz, who is the vice president of the National Work Bureau, and thank her for her patience for being with us today.

I will only proceed with part of my statement that I have here, and ask the indulgence of the committee, and direct their attention to the remaining portion, and also request permission, if we might have, at a later date, to provide additional information before the record is closed.

This is indeed a privilege to appear before the Senate Subcommittee on the Handicapped to comment on the administration of the State-Federal vocational rehabilitation program, authorized by the Rehabilitation Act of 1973, as amended.

Many handicapped individuals in this country have benefitted from this program and Goodwill Industries is pleased to be a partner in providing services to handicapped persons, particularly the most severely handicapped. The voluntary sector of which we are a part, has joined with the State-Federal program in an effort to provide a viable and effective system of comprehensive rehabilitation services.

We are aware of the need, however, to continually evaluate and assess the effectiveness of this system, and to this end we are pleased to address this committee.

As president of Goodwill Industries of America, I appear here today representing 158 Goodwill Industries throughout the United States.

We have been an active participant in the vocational rehabilitation service delivery system for many years, cooperating with Federal agencies and State departments of vocational rehabilitation.

The recent trend in the funding of the State-Federal vocational rehabilitation program has led us to the conclusion that our active and continued participation in this program must be reexamined.

Goodwill Industries of America and its 158 affiliated members are concerned that the voluntary sector has not been receiving adequate financial support from State vocational rehabilitation agencies, resulting in a severe strain on the financial resources of workshops which is reflected in a reduced range of services provided and lowered wages to handicapped individuals in extended sheltered employment.

We have watched, with growing concern, the ever increasing willingness of the current administration to allow the State-Federal program to become simply a State program. This is most evident in the distribution of program funds between various titles of the Rehabilitation Act.

The special Federal program responsibilities under title III, such as training services, facility improvement, handicapped migratory worker projects, projects with industry, and technical assistance, have received a decreasing percentage of the available resources.

Programs that were at one time funded under title III have been drastically reduced or eliminated. We strongly believe that there should be a balance between Federal and State program responsibilities, and that innovative, federally administered programs should receive adequate funds for implementation and expansion.

We have read, with considerable interest, the recently completed study of sheltered workshops conducted by Greenleigh Associates for the Department of Health, Education, and Welfare. This study contains many interesting and provocative findings which support and confirm the experiences of Goodwill Industries.

Since the sheltered workshop study points out a number of the problems found in the State-Federal VR program, I would like to comment on some of the study's major findings as they relate to the purposes of this committee.

The experiences of Goodwill Industries over the years have led to the conclusion that State VR agencies are not funding the full rehabilitation costs associated with the provision of services in the area of extended sheltered employment. The sheltered workshop study specifically supports this fact, and recommends that the Rehabilitation Services Administration recognize the rehabilitative costs of extended sheltered employment and fund these costs. The SW study concludes that this would enable the workshop to use a greater percentage of its business income for the payment of client wages.

We have found that when a VR-sponsored client enters extended sheltered employment, the workshop is required to shoulder the full cost burden of providing this individual with rehabilitative services such as counseling, guidance, and the reassessment and reevaluation of vocational skills. The sheltered workshop is also required to pay the client a wage based on his productivity, an amount often below the minimum wage.

The State VR agency has, for all practical purposes, turned over the financial responsibility for providing rehabilitation services to the sheltered workshop. This practice must be corrected, particularly when many of the severely handicapped individuals now being served by State VR agencies will not go beyond extended sheltered employment as a final vocational objective.

We believe the responsibility for funding rehabilitation services during extended sheltered employment should be assumed by the State VR agency.

The sheltered workshop study correctly points out that because referring agencies are not reimbursing sheltered workshops for the hidden rehabilitation costs associated with extended sheltered employment, a tremendous strain is placed on workshop finances in general.

We are aware that the problems associated with funding services during extended sheltered employment relate to the very important issue of wages to clients, wages which suffer because of the need to subsidize the rehabilitative aspects of extended sheltered employment.

The total amount of funds available to workshops comes from three sources—business and industrial income, fees and grants from referring and third party agencies, and support from the public. This financial distribution of resources affects the amount of income available to the workshop to pay clients for work performed. We are confident that the wages paid to clients will increase once the State VR agencies begin to reimburse workshops for these hidden rehabilitation costs.

One of the major recommendations of the sheltered workshop study is the separation of the rehabilitation and business functions either within the workshop or between workshops. This recommendation was based on the feeling that some workshop clients are deprived of the opportunity to earn higher wages because income is channeled into the funding of rehabilitation services, and some potentially competitive workers are deprived of the opportunity to find competitive employment because of the stress on production and the cutting down on rehabilitation services that might adversely affect production.

The experiences of Goodwill Industries have shown that the business and rehabilitation functions can be combined within a workshop setting very effectively without depriving clients of the opportunities for receiving services and for obtaining competitive employment.

Some workshops do stress business and production at the expense of rehabilitation when faced with the requirement to train and place handicapped clients in employment, and at the same time, faced with the need to maintain financial solvency. Nevertheless, the overemphasis on one function need not exist within a workshop offering both rehabilitation services and extended sheltered employment.

We believe that the recommendation of the sheltered workshop study does not reflect an understanding of the basic, underlying problem which creates a tremendous strain on the resources of a workshop attempting to provide a full range of rehabilitation services, including extended sheltered employment.

Extended employment, as already pointed out by the sheltered workshop study, entails hidden rehabilitation costs which are not reimbursed to the workshop by the sponsoring agency, most often, the State VR agency.

Nevertheless, these services must be paid for if a client is to be adequately served. Many sheltered workshops are attempting to provide a complete range of services to handicapped clients in the belief that this will offer them the greatest possibility to return to society as productive citizens.

A comprehensive workshop program includes professionally administered rehabilitation services as well as vocational skill training and extended sheltered employment. Many handicapped individuals are able to make the transition to competitive employment after a period of time in a sheltered employment situation. This builds their competence and capabilities to perform up to current business standards and the projects with industry program has demonstrated the validity of this approach.

I would like to digress to point out that the program of progress with industry program has been receiving only limited funding in the last couple of years. This current funding is at $1 million, which is barely sufficient to maintain an ongoing program, and provides no new money for increased projects with the industry program to be innovative throughout the United States.

Separation of the business and rehabilitative functions would not be a feasible or practical solution to this basic problem because the underlying cause would still remain—the necessity to obtain adequate resources for services to handicapped clients.

We believe the solution involves fundamental changes in three areas—realigning the fee for service structure, funding the rehabilitation costs of extended sheltered employment, and providing specific vocational training which leads to identifiable jobs in industry.

The sheltered workshop study points out many of the gaps in the delivery of badly needed services to the handicapped. It is apparent to us that the State-Federal VR program does not serve certain categories of handicapped individuals because they do not fit into the proper classification.

An example from a local Goodwill Industries will illustrate this problem. The Goodwill facility is currently serving 40 nonsponsored clients, that is, clients for whom the Goodwill receives no reimbursement for services rendered. These 40 individuals need long-term sheltered employment and supportive rehabilitation services. They receive individual treatment planning and the same services provided to sponsored or fee-paid clients.

Of the 40 nonsponsored clients, 25 are severely emotionally disabled with histories of State hospitalization.

I might point out this is one of the unfortunate consequences of our deinstitutionalization program, which is otherwise, I am sure, well intentioned.

Because their disabilities are of a psychological nature, they are not eligible to receive services from the developmental disabilities program, and although many have at one time been clients of the DVR, they are not presently feasible for services because the severity and chronic nature of their emotional disabilities make competitive employment an impossibility.

In addition, they are eligible only to receive limited clinical services through the mental health programs.

The Goodwill facility will not turn away these individuals because they are in need of services. The State-Federal VR program must be encouraged to broaden its service delivery system and fill in gaps where services are not being provided.

The sheltered workshop study points out many of the problems found in the State-Federal VR program and we have tried to underline those which we feel are the most important based on our own experience. The time has come for Congress to take a long and hard look at the VR program to determine how and where it can be strengthened.

We have maintained that the private voluntary sector must be given adequate financial and programmatic support if it is to continue as a partner in the State-Federal program.

It is important to understand that many of the severely handicapped individuals now being served will not go beyond extended sheltered employment. The sheltered workshop study correctly points out that extended sheltered employment is necessary for a high proportion of clients.

Consequently, workshops must struggle to balance budget lines or allow costs of the sheltered employment program to be borne by funds intended for other purposes.

We maintain that the State-Federal VR program has a responsibility to assist sheltered workshops in the provision of services to these long-term sheltered employees and both the Rehabilitation Services Administration and the State VR agencies should recognize their responsibilities to support clients in extended sheltered employment.

We urge this committee to seek additional information regarding the "hidden rehabilitation costs." We feel that these changes will greatly strengthen the provision of services to the handicapped and will promote better working relations between the public and private sectors.

We all have a responsibility for the rehabilitation of the handicapped, and it is our goal to provide them with the opportunities to lead full and productive lives.

Thank you, and I would be happy to answer any questions you may have.

Mrs. **Forsythe**. Thank you, Mr. Phillips.

Do you have any questions, Mr. Andrews?

Mr. **Andrews**. I have no questions.

Mrs. **Forsythe**. I believe you were present this morning and heard Senator Randolph say that he had sent down over 200 questions, many of them are on the sheltered workshop program, and we will wait for the responses to those questions, some of the other Senators may have additional questions, they will be sent to you in writing, after the responses to the questions have been received.

Thank you, Mr. Phillips.

Mr. **Andrews**. Would you care to comment about the allegations by at least one blind consumer group, that NAC, and similar accreditation agencies, have not been appropriately serving the needs of the constituency?

Mr. **Phillips**. Later on in the statement, which I did not read in its entirety, we have more which I would like to read to you, which may, in part, at least, answer your question. It says:

> The Sheltered Workshop Study makes several important recommendations relating to increasing the opportunities for the severely handicapped for employment and improving the administration of workshop programs. We agree with the recommendation that State VR agencies reorder their funding priorities and focus on three major areas:

1. *An improved placement program and occupation-oriented training.*—We have found that one of the more effective means to accomplish this is with the RSA-administered Projects With Industry program. The PWI Program is currently authorized under Section 304(d) of the Rehabilitation Act of 1973, as amended. The Secretary of Health, Education and Welfare is authorized to make contracts or jointly financed cooperative agreements with employers and organizations, including large and small corporations, unions, nonprofit rehabilitation facilities and others to prepare handicapped individuals for gainful and suitable employment in the competitive labor market. At the present time there are more than 500 private corporations and businesses affiliated through cooperative agreements with 12 PWI projects located around the country. This program has achieved impressive results in bringing about employment of severely disabled individuals in private industry. In 1975, some 1500 clients gained employment in the competitive labor market out of 2000 served in the program, a placement rate of 75%. One of the major advantages of the Projects With Industry approach to placement and training is that of extreme flexibility in program design, allowing for innovative and creative training programs to develop an expanded job market for the handicapped. We believe that this program effectively utilizes the combined resources of the sheltered workshop and private industry in a successful partnership to train and place the severely handicapped in competitive employment. We recommend that the PWI program be given greater emphasis in the State-Federal VR program.

2. *Professional and production management staff development and training.*—Goodwill Industries of America has conducted its own executive managerial training program for almost forty years and we are convinced that a program of this type which focuses on developing management skills in professional and management staff of workshops should be actively supported by the State-Federal program.

3. *Absorbing the costs of the rehabilitative elements of extended sheltered employment.*—We believe the responsibility for funding rehabilitation services during extended sheltered employment should be assumed by the State VR agency. Workshops will be able to provide better amd more comprehensive services and will have more of their business income to redistribute to the handicapped in the form of wages and benefits.

The sheltered workshop study recommends that the Federal VR program take responsibility for ensuring that standards be developed for workshops and programs.

We feel that a cooperative relationship between voluntary agencies and State and Federal agencies can achieve this objective by relying on the standards developed by the Commission on Accreditation of Rehabilitation Facilities (CARF) and NAC for blind workshops.

We also endorse the recommendation that the State VR agencies not purchase services from sheltered workshops unless the workshops have been accredited by a recognized body (CARF or NAC). This practice will encourage many workshops to upgrade their programs in anticipation of accreditation requirements, a practice which will directly benefit the handicapped clients they serve.

The sheltered workshop study recommends a demonstration of the impact of wage supplements or subsidies through the vehicle of pilot projects. We feel the issues involved in the payment of subsidies to the handicapped are quite complesx and the subject would benefit from a thorough study along the lines suggested by Senator Humphrey in S. 2019. The results will provide valid information regarding the most effective manner to proceed in the area of supplements and subsidies.

Mr. ANDREWS. You are saying you feel perhaps the standards set may be an issue, but the work of setting standards you support wholeheartedly?

Mr. PHILLIPS. Yes, indeed, I do.

Mr. ANDREWS. Thank you very much.

I have no other questions, but I would like to again thank the panel on behalf of Senator Stafford, who has been tied up, and also on behalf of Senator Schweiker, and Senator Beall, who likewise had conflicts this morning and could not be here.

Mrs. FORSYTHE. Thank you very much, Mr. Phillips.

[The prepared statement of Mr. Phillips follows:]

STATEMENT

PRESENTED BY

DEAN PHILLIPS
PRESIDENT
GOODWILL INDUSTRIES OF AMERICA, INC.

BEFORE
SUBCOMMITTEE ON THE HANDICAPPED
COMMITTEE ON LABOR AND PUBLIC WELFARE

THE REHABILITATION ACT OF 1973, AS AMENDED

FEBRUARY 23, 1976

This is indeed a privilege to appear before the Senate Sub-Committee on the Handicapped to comment on the administration of the State-Federal Vocational Rehabilitation Program, authorized by the Rehabilitation Act of 1973, as amended. Many handicapped individuals in this country have benefitted from this program and Goodwill Industries is pleased to be a partner in providing services to handicapped persons, particularly the most severely handicapped. The voluntary sector, of which we are a part, has joined with the State-Federal program in an effort to provide a viable and effective system of comprehensive rehabilitation services. We are aware of the need, however, to continually evaluate and assess the effectiveness of this system, and to this end we are pleased to address this Committee.

As president of Goodwill Industries of America, I appear today representing 158 Goodwill Industries throughout the United States. We have been an active participant in the vocational rehabilitation service delivery system for many years, cooperating with Federal agencies and State Departments of Vocational Rehabilitation. The recent trend in the funding of the State-Federal Vocational Rehabilitation Program has led us to the conclusion that our active and continued participation in this program must be reexamined. Goodwill Industries of America and its 158 affiliated members are concerned that the voluntary sector has not been receiving adequate financial support from State Vocational Rehabilitation agencies, resulting in a severe strain on the financial resources of workshops which is reflected in a reduced range of services provided and lowered wages to handicapped individuals in extended sheltered employment. We have watched, with growing concern, the ever increasing willingness of the current Administration to allow the State-Federal program to become simply a State program. This is most evident in the distribution of program funds between various Titles of the

Rehabilitation Act. The Special Federal Program Responsibilities under Title III, such as Training Services, Facility Improvement, Handicapped Migratory Worker Projects, Projects With Industry, and Technical Assistance, have received a decreasing percentage of the available resources. Programs that were at one time funded under Title III have been drastically reduced or eliminated. We strongly believe that there should be a balance between Federal and State program responsibilities, and that innovative, Federally-administered programs should receive adequate funds for implementation and expansion.

We have read, with considerable interest, the recently completed study of Sheltered Workshops conducted by Greenleigh Associates for the Department of Health, Education, and Welfare. This study contains many interesting and provocative findings which support and confirm the experiences of Goodwill Industries. Since the Sheltered Workshop Study points out a number of the problems found in the State-Federal VR program, I would like to comment on some of the study's major findings as they relate to the purposes of this Committee.

The experiences of Goodwill Industries over the years have led to the conclusion that State VR agencies are not funding the full rehabilitation costs associated with the provision of services in the area of extended sheltered employment. The Sheltered Workshop Study specifically supports this fact and recommends that the Rehabilitation Services Administration recognize the rehabilitative costs of extended sheltered employment and fund these costs. The SW Study concludes that this would enable the workshop to use a greater percentage of its business income for the payment of client wages.

We have found that when a VR-sponsored client enters extended sheltered employment, the workshop is required to shoulder the full cost burden of providing this individual with rehabilitative services such as counseling, guidance, and the reassessment and re-evaluation of vocational skills. The sheltered workshop is also required to pay the client a wage based on his productivity, an amount often below the minimum wage. The State VR agency has for all practical purposes, turned over the financial responsibility for providing rehabilitation services to the sheltered workshop. This practice must be corrected, particularly when many of the severely handicapped individuals now being served by State VR agencies will not go beyond extended sheltered employment as a final vocational objective. We believe the responsibility for funding rehabilitation services during extended sheltered employment should be assumed by the State VR agency.

The Sheltered Workshop Study correctly points out that because referring agencies are not reimbursing sheltered workshops for the "hidden rehabilitation costs" associated with extended sheltered employment, a tremendous strain is placed on workshop finances in general. We are aware that the problems associated with funding services during extended sheltered employment relate to the very important issue of wages to clients, wages which suffer because of the need to "subsidize" the rehabilitative aspects of extended sheltered employment. The total amount of funds available to workshops comes from three sources. . .business and industrial income, fees and grants from referring and third party agencies, and support from the public. This financial distribution of resources affects the amount of income available to the workshop to pay clients for work performed. We are confident that the wages paid to clients will increase once the State VR agencies begin to reimburse workshops for these "hidden rehabilitation costs."

One of the major recommendations of the Sheltered Workshop Study is the separation of the rehabilitation and business functions either within the workshop or between workshops. This recommendation was based on the feeling that some workshop clients are deprived of the opportunity to earn higher wages because income is channeled into the funding of rehabilitation services, and some potentially competitive workers are deprived of the opportunity to find competitive employment because of the stress on production and the cutting down on rehabilitation services that might adversely affect production.

The experiences of Goodwill Industries have shown that the business and rehabilitation functions can be combined within a workshop setting very effectively without depriving clients of the opportunities for receiving services and for obtaining competitive employment. Some workshops do stress business and production at the expense of rehabilitation when faced with the requirement to train and place handicapped clients in employment, and at the same time, faced with the need to maintain financial solvency. Nevertheless, the overemphasis on one function need not exist within a workshop offering both rehabilitation services and extended sheltered employment.

We believe that the recommendation of the Sheltered Workshop Study does not reflect an understanding of the basic, underlying problem which creates a tremendous strain on the resources of a workshop attempting to provide a full range of rehabilitation services, including extended sheltered employment. Extended employment, as already pointed out by the Sheltered Workshop Study, entails hidden rehabilitation costs which are not reimbursed to the workshop by the sponsoring agency, most often, the State VR agency. Nevertheless, these services must be paid for if a client is to be adequately served. Many sheltered workshops are attempting to provide a complete range of services to handicapped clients in the belief that this will offer them the greatest possibility to return to society as productive citizens. A comprehensive workshop program includes professionally administered rehabilitation services as well as vocational skill training and extended sheltered employment. Many handicapped individuals are able to make the transition to competitive employment after a period of time in a sheltered employment situation. This builds their confidence and capabilities to perform up to current business standards and the Projects With Industry Program has demonstrated the validity of this approach. Separation of the business and rehabilitative functions would not be a feasible or practical solution to this basic problem because the underlying cause would still remain -- the necessity to obtain adequate resources for services to handicapped clients. We believe the solution involves fundamental changes in three areas -- realigning the fee for service structure, funding the rehabilitation costs of extended sheltered employment, and providing specific vocational training which leads to identifiable jobs in industry.

The Sheltered Workshop Study points out many of the gaps in the delivery of badly needed services to the handicapped. It is apparent to us that the State-Federal VR program does not serve certain categories of handicapped individuals because they do not fit into the proper classification. An example from a local Goodwill Industry will illustrate this problem. The Goodwill facility is currently serving forty non-sponsored clients, that is, clients for whom the Goodwill receives no reimbursement for services rendered. These forty individuals need long-term sheltered employment and supportive rehabilitation services. They receive individual treatment planning and the same services provided to sponsored or fee-paid clients.

Of the 40 non-sponsored clients, 25 are severely emotionally disabled with histories of state hospitalization. Because their disabilities are of a psychological nature, they are not eligible to receive services from the Developmental Disabilities Program, and although many have at one time been clients of the DVR, they are not presently feasible for services because the severity and chronic nature of their emotional disabilities make competitive employment an impossibility. The Goodwill facility will not turn away these individuals because they are in need of services. The State-Federal VR program must be encouraged to broaden its service delivery system and fill in gaps where services are not being provided.

The Sheltered Workshop Study points out many of the problems found in the State-Federal VR program and we have tried to underline those which we feel are the most important based on our own experience. The time has come for Congress to take a long and hard look at the VR program to determine how and where it can be strengthened. We have maintained that the private voluntary sector must be given adequate financial and programmatic support if it is to continue as a partner in the State-Federal Program. It is important to understand that many of the severely handicapped individuals now being served will not go beyond extended sheltered employment. The Sheltered Workshop Study correctly points out that extended sheltered employment is necessary for a high proportion of clients. Consequently, workshops must struggle to balance budget lines or allow costs of the sheltered employment program to be borne by funds intended for other purposes. We maintain that the State-Federal VR program has a responsibility to assist sheltered workshops in the provision of services to these long-term sheltered employees and both the Rehabilitation Services Administration and the State VR agencies should recognize their responsibilities to support clients in extended sheltered employment. We urge this Committee to seek additional information regarding the "hidden rehabilitation costs." We feel that these changes will greatly strengthen the provision of services to the handicapped and will promote better working relations between the public and private sectors. We all have a responsibilitiy for the rehabilitation of the handicapped and it is our goal to provide them with the opportunities to lead full and productive lives.

The Sheltered Workshop Study makes several important recommendations relating to increasing the opportunities for the severely handicapped for employment and improving the administration of workshop programs. We agree with the recommendation that State VR agencies reorder their funding priorities and focus on three major areas:

1. An improved placement program and occupation-oriented training. We have found that one of the more effective means to accomplish this is with the RSA-administered Projects With Industry program. The PWI Program is currently authorized under Section 304(d) of the Rehabilitation Act of 1973, as amended. The Secretary of Health, Education and Welfare is authorized to make contracts or jointly financed cooperative agreements with employers and organizations, including large and small corporations, unions, nonprofit rehabilitation facilities and

others to prepare handicapped individuals for gainful and suitable employment in the competitive labor market. At the present time there are more than 500 private corporations and businesses affiliated through cooperative agreements with 12 PWI projects located around the country. This program has achieved impressive results in bringing about employment of severely disabled individuals in private industry. In 1975, some 1500 clients gained employment in the competitive labor market out of 2000 served in the program, a placement rate of 75%. One of the major advantages of the Projects With Industry approach to placement and training is that of extreme flexibility in program design, allowing for innovative and creative training programs to develop an expanded job market for the handicapped. We believe that this program effectively utilizes the combined resources of the sheltered workshop and private industry in a successful partnership to train and place the severely handicapped in competitive employment. We recommend that the PWI program be given greater emphasis in the State-Federal VR program.

2. Professional and production management staff development and training. Goodwill Industries of America has conducted its own executive managerial training program for almost forty years and we are convinced that a program of this type which focuses on developing management skills in professional and management staff of workshops should be actively supported by the State-Federal program.

3. Absorbing the costs of the rehabilitative elements of extended sheltered employment. We believe the responsibility for funding rehabilitation services during extended sheltered employment should be assumed by the State VR agency. Workshops will be able to provide better and more comprehensive services and will have more of their business income to redistribute to the handicapped in the form of wages and benefits.

The Sheltered Workshop Study recommends that the Federal VR program take responsibility for ensuring that standards be developed for workshops and programs.

We feel that a cooperative relationship between voluntary agencies and State and Federal agencies can achieve this objective by relying on the standards developed by the Commission on Accreditation of Rehabilitation Facilities (C.A.R.F.) and N.A.C. for blind workshops. We also endorse the recommendation that the State VR agencies not purchase services from sheltered workshops unless the workshops have been accredited by a recognized body (C.A.R.F. or N.A.C.). This practice will encourage many workshops to upgrade their programs in anticipation of accreditation requirements, a practice which will directly benefit the handicapped clients they serve.

The Sheltered Workshop Study recommends a demonstration of the impact of wage supplements or subsidies through the vehicle of pilot projects. We feel the issues involved in the payment of subsidies to the handicapped are quite complex and the subject would benefit from a thorough study along the lines suggested by Senator Humphrey as proposed in S 2019. The results will provide valid information regarding the most effective manner to proceed in the area of supplements and subsidies.

Mrs. Forsythe. May we go off the record.

[Discussion off the record.]

Mrs. **Forsythe.** Back on the record.

At this time this hearing is in recess and will reconvene at 9:30 tomorrow morning.

[Whereupon, at 4:45 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Tuesday, February 24, 1976.]

REHABILITATION OF THE HANDICAPPED PROGRAMS, 1976

TUESDAY, FEBRUARY 24, 1976

U.S. SENATE
SUBCOMMITTEE ON THE HANDICAPPED OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:45 a.m., in Room 4232 Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph and Stafford.

Senator RANDOLPH. A pleasant good morning, ladies and gentlemen.

This is the third hearing of the present series of hearings on the Rehabilitation Act of 1973. The Subcommittee on the Handicapped has an oversight function to perform, and we need to have the counsel of those persons representing organizations which are concerned with legislation affecting handicapped persons.

We are gratified by the interest indicated today by the presence of two members of the U.S. Senate, both from the State of Florida.

The testimony of these two Senators will precede the testimony of others from the State of Florida.

Senator Chiles, we are delighted that you are here.

Will you proceed now in any way that you desire.

STATEMENT OF HON. LAWTON CHILES, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator CHILES. Thank you, Mr. Chairman.

I appreciate very much your giving us this opportunity.

As you know, the State of Florida, through action of the State legislature, has reorganized its Department of Health and Rehabilitative Services.

The express purpose of this restructuring was to expand and to improve the delivery of social services to the needy and handicapped citizens of Florida.

The legislature was motivated by the needs of these citizens and intended to bridge the gaps that have frequently occurred in the delivery of services in the past.

What the State of Florida has done through this reorganization is an example of the type of initiative and innovation that should be encouraged on the part of State and local governments.

The legislature in evaluating the human services delivery system in Florida concluded that the fact of competing categorical programs often resulted in a failure to meet all the needs of a citizen or a family seeking assistance.

By changing to a decentralized, community-oriented structure, Florida citizens will have ready access to a full range of services.

For the handicapped individual this will improve and correct many of the deficiencies in the provision of services.

The problem that has arisen since this reorganization is the question of whether this new administrative structure is consistent with the Rehabilitation Act of 1973.

Specifically, at issue is the requirement of section 101(a)(2) that the State agency responsible for the rehabilitation program include an organization unit which is primarily concerned with vocational rehabilitation and responsible for administration of the vocational rehabilitation program of the State agency.

I think it is the words "responsible for," that are giving the problem.

For some time now, the State has been negotiating with HEW on this issue. It is my understanding that HEW has not made a final decision on the Florida State plan for vocational rehabilitation, but that approval is not expected.

HEW, however, has recommended to this subcommittee an amendment to authorize the Secretary to waive the requirements of section 101(a)(2) in particular cases in order to demonstrate and evaluate the effectiveness of alternative organizational structures that would improve the delivery of rehabilitative services and the coordination of those services with other health and social services.

In recommending this amendment, the Secretary has made clear his support for allowing the States to develop and test new systems for the delivery of rehabilitative and other human services.

I would hope this committee will support amending legislation to give the States the flexibility to innovate and to test; to develop more effective delivery systems to better achieve the goals of the Rehabilitation Act.

The State of Florida is confident its reorganization plan will strengthen its capability to serve handicapped and needy citizens.

I do not think States should be frustrated in their attempts to improve the efficiency and effectiveness of their operations. I certainly don't think it was the intent of Congress to limit the States in this regard.

In fact, I think there is growing recognition within Congress that State government can serve as a proving ground for new approaches; to point the way for improving federally supported programs.

The vocational rehabilitation program has in my view served the handicapped person well. It is a program that I strongly support.

However, as with most programs, there is room for improvement; and that is what Florida is trying to do: not change the vocational rehabilitation program as such, but try to see how we can provide the services for all of the needs of the handicapped person and his family as well as other people that are dependent and need services in the State of Florida.

While I think we have an excellent program—we have a number of excellent programs—they are not dovetailing. There is not coordination as there should be. I do not think we are taking care of the total needs of the person.

That is our request, Mr. Chairman.

Senator RANDOLPH. Lawton, you speak of the need for flexibility; I generally am in agreement with that, not only in one program of government, but in many programs of government.

We can become so straitjacketed sometimes that we fail to recognize that there are certain creative and resourceful ways at the State level and local level to improve the basic law, which comes from the Federal Government.

It is a responsibility that States and local subdivisions must share with the Federal Government.

As chairman of the subcommittee, I have been active in my contacts with Federal officials as to just what effective delivery systems are and how they are working.

Now, Senator Stafford, the ranking Republican member of the subcommittee, is going to introduce the administration bill which allows for a waiver under certain specified conditions. I will have the text of this bill included in the printed record so that individuals and organizations may study it.

You do not want roadblocks put up in front of Florida; is that right?

Senator CHILES. I think we would like to see that. This is an evolutionary process that the state has been going through. We first centralized all kinds of services and then we realized we had them so centralized that all the decisions had to be made at the top, and there was no way of answering a person's problem or family's problem while they were there and seeking the help.

So then in an attempt to give a one-stop delivery of services, in decentralized locations, this reorganization started coming about.

I feel Florida has been on the cutting edge of many of these issues in trying to do a better job. I would hate to see a situation in which the 50 states have to do something exactly the same way regardless of how that fits into their scheme of how they are trying to deliver services for their people, to see that blocked—the attempt to try to reform and do something in a better way.

Senator RANDOLPH. Well, we do know that there is always the goal of doing the job well. That is what you want.

Senator CHILES. I just think that the strength of our Republic is in its conception that we were going to allow the states to do those things that they can best do for the people, and that we only take on ourselves the problems which are truly national, and that could not be done in effect by the States.

More and more over the years, we seem to reverse that process; allowing the States only to have a few things that they can do under our paternal direction.

I think now the states are where there is more action, there is one-man-one-vote representation, there is more vitality in the State and local government today. I think there is some real improvement there.

I hate to see us discourage that because I think that again really strengthens the fabric of the Republic.

Senator RANDOLPH. Lawton, I think your philosophy as expressed today in connection with your testimony is helpful, helpful to me as just a Senator and helpful to me as chairman of the subcommittee itself.

I would want you to know that we have worked with your staff, as your staff has been working with us. It has been a very pleasant experience and a very helpful one.

We are going to continue to do what we can to come to grips with this issue, not a year from now, but do it within the relatively near future.

I think that is what certainly you are advocating.

Senator CHILES. Yes, sir. I certainly thank you for that.

I want to say that I appreciate very much the leadership role that you have played in this problem, not this year, but over many, many years, and the attention that you have devoted to it.

I know that one of the reasons the program is as sound and as good as it is is because of the attention and good work that you have done. I want to commend you for that.

Senator RANDOLPH. We want to work together. We are most appreciative for your attention to this program.

Thank you very much.

Senator CHILES. I want to say that Senator Stone and I both are kind of creatures of the State Government of Florida, both of us having spent our apprenticeship there. We both went through a period in Florida in which Florida went from a legislature that was controlled by the interest groups, and men in the legislature represented pine trees rather than voters because of the malapportionment of the legislature.

We saw the spark of life hit the State government and saw some of the reorganization and some of the reform that took place; so I guess that is why we have some confidence in the State.

This particular act does not happen to be one that I had anything to do with. It is a level or so up the evolutionary ladder from the time we were working on the problem. But having seen that spark of life, we have some confidence that the State government can handle many of the problems that we are now trying to handle, and over the years perhaps had to handle from up here because State governments had failed in their responsibility.

Senator RANDOLPH. Thank you. What you have said here today will be helpful to the members of the subcommittee. I can assure you that we shall continue to counsel with you and that our staffs will continue to work on some of the details of this approach that will be embodied in the bill to be introduced by Senator Stafford.

Senator CHILES. Thank you, sir.

Senator RANDOLPH. Senator Stone, you are here just as Lawton is, standing together on this subject?

Senator STONE. That is correct, Mr. Chairman.

Senator RANDOLPH. Go forward, if you would, Richard, with your testimony. We are very gratified also that you are present.

STATEMENT OF HON. RICHARD (DICK) STONE, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator STONE. Thank you, Mr. Chairman. I will be very brief, because I agree with all the points made by my senior colleague.

I would just stress, as Senator Chiles has stressed, that we do not seek to change national law uniformly through the country in order to take care of the legislative reorganization of one State.

What we seek is a change in the requirement of the law to provide for really three features.

One feature would be to allow, but to limit, the number of demonstration deliveries, such as the reorganized approach that our Florida Legislature has set forth, to allow demonstration projects, to allow pilot projects, and to limit their number.

A second would be to provide, in effect, for public comment on that approach.

A third would be to make sure that any such demonstration approach could not or would not result in a reduction in the level or in the quality of the delivery of these services to the handicapped.

So what we are really doing here is simply saying that if this committee takes up the question of permitting pilot projects, you at that time consider an amendment to the statute that would allow such projects, a limitation of it, public comment on it, and a determination by the Secretary that to allow such projects would not reduce the quality of the service that our law is designed to deliver.

If you can take care of that, as you have in a number of other programs delivered by this same Federal structure, then that will allow Florida either to sink or swim on this new approach which its legislature is trying.

The nature of the project is really quite simple. It is the old one-stop-shopping approach. It is not only ineffective, inefficient, and wasteful, but very, very frustrating for anybody that goes to a store to be told you have to go down the street to another store when the project is so similar that it ought to be on those same shelves.

Now, the same thing is true in the delivery of certain social services, and particularly if someone happens to be handicapped, to be told that, to be able for you to cope better with the problems of society and the economy, at such a place you cannot receive services so allied that logically they ought to be there. Instead you have to go across town and fill out a whole new set of forms and wait your turn over in that other outfit to receive something—to receive it there costs the taxpayer more money, causes you more grief and time, and really does not assist you to cope.

And so, Mr. Chairman, we hope that in the wisdom of this committee you can make a provision for the Florida experiment, along with whatever other experiments the Federal department feels would not reduce services; would allow public comment and would give us a chance to find a better way and a cheaper way for our taxpayers to do that which our compassion militates us to do, which is to take care of people's ability to cope.

I thank you so much for this chance to appear before you.

Senator RANDOLPH. Thank you, Senator Stone.

As you have documented your thinking—and it does coincide with what Senator Chiles has said—I am sure that you gentlemen are aware that there is some difference of opinion on the Florida reorganization in Florida and here in Washington.

I am not familiar with the provisions of the bill which Senator Stafford plans to introduce.

Senator Randolph. But it will give us the basis upon which to make decisions on the organizational structure of agencies which deliver services to handicapped individuals.

I am grateful, as are all members of the subcommittee, for your having taken the time to explain your interest and to tell us of your concern.

I thank you.

Senator Stone. Thank you.

Our next witness is Representative Arthur H. Rude, State representative, 85th District, State of Florida. Proceed with your statement.

STATEMENT OF HON. ARTHUR H. RUDE, STATE REPRESENTATIVE, 85TH DISTRICT, STATE OF FLORIDA

Mr. Rude. Thank you, Senator. I appreciate the opportunity to appear here today.

My name is Representative Arthur H. Rude. I am from Fort Lauderdale and Broward County, and first elected to the legislature in 1966.

I am part of the reorganization that Senator Chiles talked about; I have taken part in it, in our constitutional revision back in 1968.

It is with a little bit of fear and trembling perhaps that I have taken a position that is opposite to that of the Senators from the State of Florida. I have done that before, however, and I guess from time to time will continue to do that. That is what this kind of government is all about.

I think, first of all, as a Floridian and member of a Southern legislature that of course States' rights is still something very important to the South and I think to this whole Nation.

The fact that we like to determine our own destiny is certainly evident in every facet of our life and Government, and the ability to be flexible and to be innovative is something that we all desire.

But when it comes to this particular legislation, I would like to suggest that, first of all, these taxes are collected at the national level. It is my opinion that with a minimum of Federal restriction, that you have indicated certain line responsibility from Washington directly on down to Florida, and directly on down to the recipient.

So that the recipient in the State of Florida in the past has not had to face some faceless bureaucrat in Tallahassee or Washington but go right to the well and drink therefrom.

I think it has been a very good program.

My two committee assignments are Transportation and Natural Resources. But I would say that probably of the calls we get in my office, the third most heavy volume of calls received are from people that are interested in vocational rehabilitation and in rehabilitation.

I can tell you firsthand that it has been a success in Florida. I would not agree with the "one-stop-shopping method" that we heard referred to quite often before because I find that the people that require vocational rehabilitation services, the people that have to administer that service, their qualifications are much different than the qualifications necessary to administer help for the aging or help for those that are needy, for whatever reason.

We have, I think, in Florida, and probably because of the way the Federal government administers this program, a very viable, successful program. I think it has worked well because of this direct-line authority and because we do *NOT* have a "supermarket shopping system."

I do not necessarily subscribe to the philosophy that bigger is better. Sometimes bigger can become more confusing, and can finally make the whole machine just run down and wear out.

Senator, I do not intend to try to detail where I think we are in violation in Florida, but I do not want to in my testimony indicate to you the concern of those that opposed this bill when it was voted on in the legislature, and to also indicate to you that this was not a unanimous decision within the legislature itself, and with the people of the State of Florida. There is a great difference of opinion here, and certainly within the recipients and counselors there is a great deal of, I guess—I characterize it as demoralization and concern for what may be about to happen to them.

It is very easy to understand that the recipient of vocational rehabilitation services is not generally a well-organized body politically, with a great deal of clout or very loud voice; but in most cases individuals are trying by bootstrap efforts to bring themselves up to a position to where they become taxpayers. I think the whole philosophy of our VR in Florida is different from our welfare programs in some of the other branches of government. And for that reason I would like to make it clear to you, sir, that there is a great deal of concern in the State.

Let me relate to you so the committee can understand that I was not present in the Senate when this legislation was passed, but I was in the Florida House.

When we reorganized the government in Florida, in the late sixties, we took vocational rehabilitation out of education. Personally, I thought that was a mistake and that it belongs back in there. But nevertheless this was not the issue we were taking up in this particular legislation at that time.

But I was working with people in the educational and the commissioner of education's office, and I had discussions with some of the other VR people about this bill. My concern was that our proposed reorganization was in violation of the Federal law, and we were facing being disqualified and in losing some Federal funds, because of the way the reorganization bill was made up—and I would represent to you today that early in the debate, when the floor manager was explaining the bill, he indicated that this bill had the support of the VR people and the education people, that there had been a compromise reached and everybody was pretty much in agreement with this bill.

Having had an active part in getting the bill—or getting this issue this far in the legislature, I of course left the floor to find out whether there had been a breakdown in communication and I had been misinformed.

I found out I had not been misinformed, that in fact there had been no compromise, and there still was a great difference of opinion there and that it still existed.

I made this known to the membership of the legislature during the floor debate. I would like to read to you, sir, a letter that I requested be sent to me. It was in response to an inquiry I made to your people in Tallahassee, and was written by Stephen J. Cornett, Acting Director, Office of Rehabilitation Services. I think if I supplied a copy of the letter for the record you will be able to understand what my inquiry was and certainly the nature of the response in the letter.

[The letter referred to follows:]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
REGION IV
50 7TH STREET N.E.
ATLANTA, GEORGIA 30323

OFFICE OF HUMAN DEVELOPMENT

OFFICE OF THE REGIONAL DIRECTOR

April 15, 1975

Room 713

Honorable Arthur H. Rude
Florida House of Representatives
Room 318C, House Office Building
Tallahassee, Florida 32304

Dear Mr. Rude:

Pursuant to your request for information on the compatibility of Committee Substitute Senate Bill 165 (CS SB 165) and the Rehabilitation Act of 1973 and the regulations implementing this Act, we offer the following observations.

While the state may designate an umbrella agency such as the Department of Health and Rehabilitative Services as the sole state agency, the law requires that there be an organizational unit devoted solely to the vocational rehabilitation program. All decisions affecting eligibility for and the scope and provision of rehabilitation services must be made through this vocational rehabilitation unit. Regulations implementing these provisions specify that the state plan must provide for "clear lines of administrative and supervisory authority" (45 CFR 401.7(a)(2)) within the sole state agency and that the state plan must also provide that the vocational rehabilitation unit be "responsible for the administration of such state agency vocational rehabilitation program" (45 CFR 401.7(b)(1)). The arrangement specified in CS SB 165, Section 20.19(3)(a) would seem to be in direct conflict with the Vocational Rehabilitation Act and regulations. Also the duties of the district administrators as described in Section 20.19(4)(c) would also appear to be in conflict with Federal law and regulations.

Implicit in the umbrella concept is the idea that certain purely administrative functions are not required to be performed by vocational rehabilitation personnel. Such allocation of function, however, is impermissible when it results in vesting authority over vocational rehabilitation programmatic matters in any person outside the vocational rehabilitation unit. CS SB 165, Section 20.19(3)(b) and (c) would seem to vest authority over vocational rehabilitation programmatic matters in individuals who are not located within the vocational rehabilitation organizational unit.

We note that in reviewing this proposed legislation that it contained no disclaimor clause and without this provision our office feels that it would be extremely difficult, if not impossible, to develop a state vocational rehabilitation plan with the organizational structure which is proposed in CS SB 165.

Members of our staff and other officials within the Department of Health, Education, and Welfare have met with Mr. Barry Kutun, Chairman, Committee on Health and Rehabilitative Services, and have offered him and the committee the same observations about the requirements of the Rehabilitation Act and regulations. We understand that a similar meeting is scheduled for Monday, April 21, with the appropriate individuals in the Florida State Senate.

We trust that our comments will assist the Florida Legislature in developing the act to include an organizational structure which can meet the needs of the State of Florida and the needs of the handicapped citizens of Florida, while at the same time achieving consistency with both State and Federal statutes. Thank you for your interest in the State/Federal vocational rehabilitation program.

Sincerely yours,

Lewis M. Davis for
Stephen J. Cornett
Acting Director
Office of Rehabilitation Services

Mr. RUDE. This letter, Senator, was read during the debate on the floor, and the argument offered in opposition to its consideration, I guess, was the fact that within the law we had a lifesaver, life preserver, that if we were in fact wrong, and this letter would indicate to me that we were, that the Federal Government had the ability to make us come into compliance.

This is what some of us objected to, that we had ability to do it our way, as long as we followed the guidelines that you rightfully put out before us. And that is the way we should do it.

It was considered by some of us to be an irresponsible stand to take.

I think I probably have one more thing to read into the record, and then if you have any questions, Senator, I would be willing to answer the questions.

I have a letter dated February 9, 1976, and it is my understanding that the State of Florida has indicated to the Federal Government that they are following the old plan and that we were still in compliance.

However, in this letter, from Robert P. Kelley, the Administrator of District X, my district in Broward County, and it is addressed to the members of the Broward County legislative delegation, and the letter speaks of target dates for certain action that has been assigned to Mr. Kelley as District Administrator, and his report on how he is reaching those goals and whether or not they are being met, and one of the paragraphs says:

> The third target date also mandated by the Secretary is March 1st, when the district is to assume maximum program responsibility from each of the eight central program offices. An Operation Plan for that task has also been prepared and is likewise available to you upon request. The import of this target date is that as much program responsibility will be transferred from Tallahassee to my office on that date as we are able to receive.

That last sentence indicates to me that the direct line responsibility that the Federal law mandates is really not at all going to be the case any more and that our plan, even if it is in compliance now, will certainly soon not be in compliance.

I appreciate the ability to be here today, Senator. Thank you for this opportunity.

Senator RANDOLPH. Thank you very much, Representative Rude.

Your participation at the Florida legislative level certainly causes you to be able to speak not only from participation in the process, but also knowledge from the act of 1973 as it has been administered.

Do you feel that Florida can continue without the proposal or the approach that Senator Chiles and Stone and others are advocating?

Mr. RUDE. Yes, sir. I feel it would be disasterous to follow that approach insofar as vocational rehabilitation is concerned.

We have a program that was a viable, good program, taking people and putting them back into the category of a citizen that was a producer and taxpayer, and I have real fears that if we change this significantly that we are going to find ourselves in a position of vocational rehabilitation people being a different kind of technician than what they are now and becoming more welfare oriented, perhaps. These people are a bunch of good, hard nosed people in Florida that take, with certain limitations, these folks and train them and do not pat them on the head or anything such as that as they go along. They really bring them along.

These are professionals that I have observed that are really doing a super job, at least in Florida. I think they are doing it because of this direct line that we have, and to do anything other than that, I think, and to merge this with other programs, would be a tragic mistake insofar as Florida is concerned.

Senator RANDOLPH. Representative Rude, you said that if the approach advocated by the Senators and others were to be embodied in the change, it would be disastrous. I am not trying to clamp on that word, but do you feel that the present program is successful?

Mr. RUDE. The present program is one of the best programs in government in Florida that I am aware of; yes, sir. It is abundantly successful.

Senator RANDOLPH. You feel this so-called flexibility or new approach would tend to make the program more welfare oriented? Is that what you are saying?

Mr. RUDE. Yes, sir. There is not a doubt in my mind that the person that is a vocational rehabilitation professional is oriented to the problems of getting that person self-sufficient and on his own. When we get to the other areas that this department would then work in, if we went the route it appears we might go, I think you would find we would lose our technicians. We do not have those people that are able to respond to those particular needs. I think it would be as a result of the supermarket approach, which is not a good approach in this instance.

I do not go to a supermarket to buy a television set. I go to a television store where the technicians know how to put a television set together. I do not go to a supermarket. If I want groceries, which is part of the problem with the aging and some of the other programs, that is a different matter. When I want technical assistance, I generally go to a good technician.

Senator RANDOLPH. Yes. We must have a mutual goal of improved methodology of bringing services to all handicapped people and doing it realistically and doing it productively. We can agree on that, can we not?

Mr. RUDE. Yes, sir.

Senator RANDOLPH. I thank you very, very much.

Off the record.

(Discussion off the record.)

Senator RANDOLPH. On the record.

Senator Stafford?

Senator STAFFORD. In order to get the matter that is being discussed this morning before the subcommittee, I will be willing to put in a bill to accomplish that.

Mr. Chairman, as you point out, I am on the Public Works Committee, which you chair, and I knew that if I came down here after getting through a conference with the Secretary of the Army, that I would not be late there if I went to that committee with you.

So I am going to have to leave also.

Senator RANDOLPH. Off the record.

(Discussion off the record.)

Mrs. FORSYTHE (presiding). Our next witness is Mr. William J. Page, Jr., secretary, Department of Health and Rehabilitative Services, State of Florida.

STATEMENT OF WILLIAM J. PAGE, JR., SECRETARY, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, STATE OF FLORIDA; ACCOMPANIED BY EMMETT ROBERTS, SENIOR ADVISOR; AND DR. JACK HUTCHINSON, PROGRAM DIRECTOR

Mr. PAGE. I would request permission to have my two colleagues accompany me at the table. I will introduce them shortly.

My name is William J. Page, Jr. I am secretary of the Department of Health and Rehabilitative Services, State of Florida.

Prior to entering that position in August 1975, I spent about 25 years in the Federal Government, and in the Intergovernmental Management of Federal Grants in Aid.

Among the positions in which I performed that work were those of regional director of the Department of Health, Education and Welfare; director of Federal Coordination for HEW; associate administrator of the Social Rehabilitative Service, and a variety of positions over a period of more than 10 years in the public health system of the Federal and State Governments.

I would like to introduce two of my colleagues who are present in the event the questions arise which would be more suited to their particular competencies than mine.

On my left is Mr. Emmett Roberts, who in two instances has served as secretary of the department which I now represent. He is still in the Department as Senior Advisor.

On my right is Dr. Jack Hutchinson, formerly the director of rehabilitation for the National Goodwill Industries, and at the moment is our program director in Rehabilitation in Florida.

I greatly appreciate this opportunity to appear.

I have three purposes this morning. The first is to report to you some of Florida's experiences under the existing act.

Second, it is to call your attention to a particular problem.

And third is to recommend certain changes in the statute.

I firmly believe that the special problem now threatening the State of Florida is nationally significant. At the minimum, it potentially affects 27 States that are taking constructive steps toward the integration of fragmented, categorical systems of human services.

The general problem now faced by Florida, is possible disapproval of its State plan for vocational rehabilitation services. The specific problem arises from Federal insistence on prescribing State administrative structure and process as far down as the fifth, sixth, and seventh levels of organization.

Though this might seem incredible to you, I assure you that it is true, that a special interest group is financing and managing a nationwide campaign against approval of the Florida plan and that nearly $40 million are at stake.

Prior to analysis of this current problem, I wish to provide some background information on Florida's rehabilitation performance and attitude.

Authority for vocational rehabilitation services was provided in Federal and Florida statutes enacted in the 1920s. These statutes provided a partial response to the needs of persons injured in industrial accidents. Early programs were operated by a few specialists who mainly sought services from existing agencies and other providers. Thus, a pattern of interagency cooperation in Florida was established in the vocational rehabilitation program.

The Florida program became a leader in improving services to the handicapped. The Florida vocational rehabilitation agency in 1941 developed and advocated passage of legislation which provided funds to local school districts for educating handicapped students. This was the beginning of an exceptional education program which is considered to be among the best in the nation.

Other improvements were made in the Florida program prior to Federal enactment, include the following:

Payment of living expenses while receiving rehabilitative services.

Medical treatment necessary for rehabilitation.

Teaching self-help skills to the handicapped.

The Florida vocational rehabilitation program, as required under the early legislation, was operated by the State education department. Few other human services were available in that period.

New programs potentially helpful to rehabilitation clients proliferated in the 1950's and 1960's. Much of the potential benefit was not realized.

Usually, a separate agency was established for each new categorical program. Florida's response was enactment of legislation in 1963 to permit cooperative agreements. Cooperation was exceedingly scarce and difficult to achieve in a categorical thicket of 180 separate boards, commissions, and agencies.

A new constitution in 1968 enabled the State to limit the number of state departments to 25. Human services were organized in 1969 into an "umbrella agency" of seven program divisions. This arrangement, named the Department of Health and Rehabilitative Services, provided a loose federation of categorical program units corresponding closely to the Federal health and welfare structure. The practical result was propinquity without unification of human service effort.

Clients searched among the seven divisions and their disparate field units for needed services. If a client needed more than one service, he or she traveled from office to office—frequently from city to city—completing a new eligibility form in each place, getting redundant questions and diagnostic work, and suffering other consequences of an uncoordinated system.

It is scarcely surprising that categorical programs became rather insular under these circumstances. A straight line of communication and financial resources ran from the categorical agency in Washington through intermediate State or other agencies to the client in the local community. These vertical autocracies usually were responsive to Federal Government and coordinative measures only to the extent required to obtain local and State funds to match Federal grants.

Each narrow system fostered a constituency of special interest groups, nearly always including professional organizations whose members were payrolled or otherwise benefited by categorical grants.

The vocational rehabilitation program grew rapidly in this intergovernmental pattern. The statutory authority was rather flexible, especially so in special project grants, and the States responded to increased Federal funds with categorical fiscal matching. In fact, more than half of the States appropriated more than the amounts required in 1974 for matching their respective Federal grants.

This level of State effort is understandable in the idealistic terms of the work ethic or as a social investment yielding high economic returns. Selected data from Florida's vocational rehabilitation activities speak of successful outcomes:

One: More than 85,000 persons were served and 10,300 disabled individuals were returned to work in 1975; the number of rehabilitants declined from 15,000 in 1974, reflecting compliance with Federal amendments which emphasize services to the severely handicapped.

Two: 1,612 disabled public assistance recipients were rehabilitated, producing annual savings of approximately $1 million in public assistance payments.

Three: Rehabilitants achieved average earnings of $4,400 in the first year of employment; taxes returned to the State more than equaled the State contribution to the cost of their rehabilitation.

Four: More than 9 out of 10 persons rehabilitated are placed in competitive employment, with most of the remainder assuming homemaker tasks.

Vocational rehabilitation and other categorical grants-in-aid provide necessary services to millions of Americans. Such services often make the differences between hunger and sufficient food for a family, dependency and self-sufficiency, neglected health and basic health care, productivity and wasted human potential.

These programs are very important to me.

Florida's commitment to human services is reflected in its budgetary trends.

From 1969 to 1977, the budget for the department of health and rehabilitative services will increase from approximately $300 million to nearly $1 billion. The Federal contribution will decline in the same period from more than 52 percent to 49 percent of the total.

I anticipate that, early in March, Governor Reubin Askew will send to the Florida Legislature a budget proposal which recommends an increase of nearly $100 million for health and rehabilitative services. That gain would be 11 percent over the current year, though State revenue experience and projections reflect severe and persistent economic recession.

Budgetary and legislative changes are only two of many variables affecting vocational rehabilitation services in Florida and elsewhere in the United States. Changes in patterns of family life and other aspects of human experience cause our people increasingly to turn to public agencies for services which, in other years, were provided, if at all, by extended families.

Public expectations include convenience of location and access, responsible administration, and opportunity to influence the systems that purport to serve.

The Florida Legislature responded to these expectations in 1975 through enactment of legislation which reorganized the department of health and rehabilitative services.

The new department is significantly different from the traditional single-purpose agency and most of the so-called "umbrella agencies" recently created in other States.

Florida's Department of Health and Rehabilitative Services is a unified and decentralized agency. Eight formerly separate program divisions, each with its own administrative support systems and field structure, are given unified management at headquarters and in 11 districts. District administrators are given comprehensive authority for program implementation. Eight program offices at headquarters provide statewide supervision of program administration, perform planning and monitoring functions, evaluate program performance, and provide technical assistance to the service districts.

The new structure and process of service delivery assure colocation of field offices, access to all departmental services by contact at any point, and case-manager advocates to guarantee that planned services are provided.

The case manager's assumption of responsibility for coordinating delivery of services is in several ways modeled after the work of a vocational rehabilitation counselor. The counselor traditionally has assumed full responsibility for seeing that a client's needs are met.

Under the Florida system, the vocational rehabilitation specialty would continue to provide professional services to a client. The clerical work of intake would be provided as a unified service. Transportation and other client support services would be provided to all who need them. The vocational rehabilitation counselors and supervisors would be able to spend full time in the work for which they are uniquely suited by professional training.

The service networks provide a close community of work with other professionals in a local area.

A structural picture of the new department and the antecedent organization is provided in attachment I. Excerpts of the Florida statute—chapter 75–48—which mandates reorganization are shown in attachment II.

Pilot demonstrations of the new service system are operating successfully in two districts. At least one service network will be activated in each of the 11 districts on March 1, 1976. Initial experience of the new system indicates great potential for improving the quality of services and a high order of professional satisfaction.

Despite the potential gains, serious problems have arisen in the intergovernmental process. Federal administrative interpretations of the Rehabilitation Act of 1973, as amended, are unfavorable to the Florida plan and pattern of administration. No serious issues have been raised about the quality or quantity of service to be provided in Florida. Instead, the issues are raised in terms of hierarchical relationships and prerogatives. Three major Federal administrative objections are as follows:

One: The organizational unit for vocational rehabilitation must continue in an unbroken line from the State program director to the vocational rehabilitation counselor at the point of service to clients. No intervening level of departmentwide management, namely, District Administrator, is acceptable.

We have on the average in our district almost $100 million worth of activity. I submit to you that responsible public management requires some general oversight leadership and direction of systems of that size.

Two: The State program director must control all vocational rehabilitation personnel in the system, that is, have hire/fire/ evaluation prerogatives.

Three: The State program director must have final approval of the budget.

These objections are attributed to certain provisions of the Federal program policy guidelines, regulations and law. Federal personnel do not contest the Florida Department of Health and Rehabilitative Services as the "sole State agency," required by section 101 of the Rehabilitation Act.

The specific problem, according to the Rehabilitative Services Administration, is found in the meaning of the "single organizational unit" provided in section 101.2(A). This provision is construed as proscribing the general supervision of vocational rehabilitation staff by a direct Administrator who has departmentwide responsibility in a multicounty area.

The statute—section 101, Public Law 93-112—speaks of a unit "primarily concerned with vocational rehabilitation," with a "full-time director," and "full-time staff" to administer or supervise the administration of a State plan.

The Federal administrative policy construes such language to mean "clear lines of administrative and supervisory authority" with "all decisions affecting eligibility, the nature and scope of, and the provision of * * * services * * * being * * * through the VR unit."

Negotiations focusing on these issues began in the summer and continued through December of 1975. Florida was then operating under a continuation of its fiscal year 1975 plan.

A new plan was written and sent to the Atlanta Regional Office of HEW on January 2, 1976. This plan incorporated understandings reached with Federal officials during discussions of a "draft" plan in November and December. Negotiations continued intermittently until January, which resulted mainly in editorial revisions. Two requested changes could not be made.

First, the Federal agency would have required that the State program director be given prior approval of all field personnel selections.

Second, the Federal agency would have required that final authority over the State plan and budget be exercised by the State program director.

To make these changes would, from the Florida perspective, have the following adverse effects: (1) Inversion of the authority relationship between the Secretary of the Department of Health and Rehabilitation Services and the Vocational Rehabilitation Program Office Director; (2) Destruction of the integral quality of the Department, that is, creation of a duality consisting of one department for vocational rehabilitation and another for the remainder of the Department's functions; (3) Violation of the relevant Florida statute and accession to Federal administrative requirements beyond the Federal statutory provisions.

In late January 1976, the Federal agency was advised that no further changes would be made in the proposed plan. The plan is now under consideration by the Department of Health, Education, and Welfare.

Preliminary indications are that the proposed plan might not be approved. Disapproval would initiate a lengthy process of administrative hearings and possible litigation. An outcome unfavorable to the State could evoke a termination of Federal funds.

The Federal decision on the Florida plan is to be a signal action from several perspectives. If the decision is negative, the innovation in Florida will be adversely affected and the Nation will be denied an excellent opportunity to learn whether a new pattern of human service delivery can be constructed within the categorical framework.

Unfortunately, another perspective is that success of the Florida plan will compromise the "turf" jealously guarded by special interests. We are in a truly extraordinary situation.

The National Rehabilitation Association (NRA), declaring Florida to be "a 'test case' for the Nation," has launched a campaign to force the Secretary of the Department of Health, Education, and Welfare to disapprove the Florida plan.

Several issues of NRA propaganda, replete with erroneous and misleading information, have been distributed nationwide.

A fund, described by some NRA members as a "Florida war chest," was begun at the 1975 NRA annual conference in Cincinnati, Ohio.

The Florida Rehabilitation Counselors Association was stimulated to bring a lawsuit in an unsuccessful effort to enjoin the State of Florida from implementing the Reorganization Act. A full-scale lobbying effort continues in Tallahassee and Washington.

Irresponsible behavior by the NRA includes misrepresentation of the proceedings of one of my conferences with Commissioner Andrew Adams of the Federal Rehabilitation Service Administration.

In a widely distributed memorandum, NRA reported that I had met with Commissioner Adams on November 18, 1975, and that he had given "the State of Florida until December 15, 1975, to bring its rehabilitation program into compliance."

That statement is untrue. Furthermore, Governor Reubin Askew has also found it necessary to set the record straight on other erroneous and misleading information attributable to NRA.

The implication of NRA's power to control public policy and administration is appalling. The following quotations are particularly disturbing:

> If HEW judges that the State of Florida has brought its plans into compliance . . . . it will be critical that NRA agree with what is judged compliant.
>
> In view of the political year ahead, there is the real danger of "foot-dragging" in the setting of a hearing date and in the implementation of subsequent action. We have made it very clear that NRA will not tolerate delays in resolution of this matter.

When and if a Federal agency submits a review and approval of its decisions by a special interest group, a distinct possibility of corruption exists. I believe that the author is perfectly innocent of the presumptive power reflected in the immedate preceding quotation, but it suggests undue influence on the actions of a governmental agency.

Mr. ANDREWS. Previously you mentioned a lawsuit, an unsuccessful effort. Would you explain how this lawsuit has been unsuccessful?

Mr. PAGE. The injunction that was requested has been denied by the court.

Mr. ANDREWS. Is it a State court?

Mr. PAGE. It is a State court.

Mr. ANDREWS. Thank you.

Mr. PAGE. The special interests apparently are motivated by a territorial imperative. This motive is precisely the source of difficulty in coordinating programmatic fragments of human services. The following analysis of several coordinative efforts provides pertinent insight:

> Four major barriers adversely affect coordination. First of all, organizations tend to maximize their own autonomy. Second, professionals become ideologically committed to their treatments as well as their own needs for autonomy. Third, client representatives are concerned about professional control and have conflicting interests about priorities. Finally, resource controllers are divided and uninterested in the problems of the difficult client.

The same authors also call attention to the fact that each profession considers its own area of expertise to be the critical one. The result is that programs have a tendency not only to proliferate but also to be dysfunctional.

The Florida system is designed to test methods which affect the adverse consequences of this tendency.

The militant opposition of the NRA, whose membership roster is heavily saturated with persons who are payrolled by vocational rehabilitation programs, is not matched by some organizations of the handicapped. For example, the Florida Council of Organizations for the Handicapped supported the Florida Reorganization Act and its implementation, while labeling some of the NRA propaganda deliberate lies.

One perspective of the Florida initiative is that it provides learning opportunity, which is a direct consequence of the flexibility inherent in the system of Federalism established by the Constitution of the United States. A landmark court decision contains eloquent expression of this potential:

> It is one of the happy incidents of the Federal system that a single courageous state may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country.

The Department of Health and Rehabilitative Services in Florida is being reorganized under a public policy decision made by responsible elected officials. The only risk to persons outside the State is to the controlling impulses of vested interests.

There is no inherent conflict between Florida's new organization and categorical intergovernmental grants-in-aid. Modern management technology can assure accountability ranging from simple fiscal integrity to answerability for programmatic outcomes.

The risk of decimating programs—through administrative discretion to transfer small percentages of resources from one program to another—is a shibboleth raised by turfguarding opponents of change.

Even the most unsophisticated public administrator knows that he or she cannot transfer Federal or State dollars when those dollars are precisely matched under a Federal statutory formula.

The more sophisticated administrator appreciates the required State plan as an intergovernmental contract which binds both the Federal and State participants to the terms and conditions of Federal grants-in-aid.

It is clear that the Federal Government enjoys a distinct power advantage under conditional grants. While it is true that a State may decide not to participate, the financial incentive is powerful. Justice is compromised when administrative interpretations have the effect of total Federal dominance in an intergovernmental relationship which functions optimally as a cooperative partnership.

Nevertheless, the State of Florida does not feel powerless in this situation.

First, we believe that Florida's proposed rehabilitation plan meets the requirements of Federal and State statutes;

Second, we believe that the Administrative Procedures Act provides an opportunity for settlement of disputes which may arise;

Third, the courts provide an avenue for redress of regulatory, statutory, or constitutional grievances;

Fourth, onerous conditions of participation might provide sufficient cause for declining to accept Federal participation, if all efforts of accommodation were to fail.

The fourth option would be burdensome to the State, although it probably would be a relatively temporary solution, based on confident knowledge that the national trend in human services organization will vindicate the Florida model. This prospect of victory frightens and motivates the antagonistic special interests.

I remember the initial efforts of Senator Mark Hatfield, when he was Governor of Oregon, to place some of his people-serving agencies under a common administration. He was vigorously and successfully opposed by Federal administrators and other special interests—for a time. The organizational action which then Governor Hatfield proposed in the 1960's would excite little attention or concern today.

Florida is bearing the brunt of the next wave of change in human services delivery. At the same time, Florida represents an excellent opportunity to test some of the concepts, slogans, and designs which have been discussed extensively, but not rigorously field tested.

Whatever the outcome of the Federal and State negotiations surrounding the Florida VR plan, the State of Florida is, and will remain, deeply committed to the provision of rehabilitative services to disabled people.

The Department of Health and Rehabilitative Services highly prizes, and will continue to use effectively, the knowledge and skills of vocational rehabilitation professionals.

They and their colleagues will have the opportunity, directly and indirectly, to serve tens of thousands of Floridians whose handicaps represent barriers to full enjoyment of life and work.

With or without Federal financial participation in its much valued rehabilitation program, the State will provide more rehabilitative services in each year of the past. Thus, we will achieve one of the fundamental purposes of the Department's creation and reorganization; namely, to provide more and better rehabilitative services to the citizens of Florida.

In conclusion, I want to pledge my support, and that of the State of Florida, for the Federal Rehabilitation Act of 1973. However, in order to strengthen the Act and to provide the framework for improved delivery of rehabilitative services to disabled people throughout the Nation, I urge your consideration of the following recommendations:

One: States should be given greater flexibility in organizing their human service delivery systems. Thus, the requirement for a single organizational unit with line authority over vocational rehabilitation staff who actually deliver services to clients should be deleted or changed to permit matrix organization and other concepts. In addition, Federal law should permit Statewide demonstrations of innovative delivery systems that might be of benefit to all States.

Two: Constraints prohibiting services to the severely handicapped, for whom an employment objective may not be feasible but who need assistance to reach their full potential for independent living, should be eliminated.

Three: Monitoring and evaluation of program performance should be required to insure that Federal vocational rehabilitation moneys are being effectively, as well as legally, expended.

Four: The Rehabilitation Act of 1973, as amended, mandates that severely disabled persons should be afforded priority consideration for receiving vocational rehabilitation services. The statutory and regulatory provisions for definitions of "severely disabled" should be limited to a requirement of State plan stipulations, which would permit sensitive accommodation to State and local problems and opportunities.

Five: There are many severely disabled individuals who can perform some useful activity, but who are rejected in the competitive labor market, because their productive capability is not sufficient to cover the cost incurred by a rehabilitation facility.

Allowing them to live in the community and do some productive work in a facility is, however, less expensive than maintaining them in institutions and is more beneficial to the disabled individuals themselves and to their families.

Therefore, the Rehabilitation Act of 1973 should also be amended to provide funds for subsidizing rehabilitation facilities which offer work opportunities to those individuals who are severely disabled and who have limited productive capability.

Six: The Intergovernmental Cooperation Act, Public Law 90-577, should be amended to prevent the requirement of "single organizational unit" and similar devices from displacing the worthy purpose of State executive discretion in organizing to perform intergovernmental programs.

I thank you.

Mrs. FORSYTHE. Thank you very much, Mr. Page. There are several questions which we do have. I am going to ask only one and submit the others to you so that you can submit your responses in writing.

Under the proposed structure for vocational rehabilitation programs, who will have the final authority in determining the eligibility requirements for the vocational rehabilitation clients?

Mr. PAGE. In the Department of Health and Rehabilitative Services in Florida, I have the final authority for total Departmental activity. There is a functional delegation which would be made through the operations line to the District Administrator, and he then would redelegate that kind of function to the appropriate program supervisors on his staff.

The vocational counselors and the other people, depending on the district, would report directly to the program supervisor. There is no way that a public health nurse or a secretary is going to make a decision of eligibility for a VR client.

This will be done by VR professionals, as it has always been done.

Mrs. FORSYTHE. Mr. Robert Humphreys, who is Special Counsel for the Committee on Labor and Public Welfare, has a question for you, Mr. Page.

Mr. HUMPHREYS. Mr. Page, what is the current situation vis-a-vis HEW and your State agency?

Mr. PAGE. As HEW is aware, we filed a plan last August. We have negotiated about this plan. We have made considerable revision, compromises, really, in that plan, and about the end of January, we came to the point that I mentioned earlier where we simply could not make further changes.

We advised HEW and they now have that plan under consideration.

Mr. HUMPHREYS. Would it be feasible to request that you submit a copy of that state plan for the hearing record?

Mr. PAGE. It is quite feasible and we would be glad to submit it for the committee.

[The material referred to may be found in the files of the subcommittee.]

Mrs. FORSYTHE. Thank you.

Mr. Jack Andrews, minority counsel for the subcommittee, also has a question, Mr. Page.

Mr. ANDREWS. Would you be willing to return before the committee at a later date should the committee require more information or testimony on this subject?

Mr. PAGE. I would, indeed, so long as there is an opportunity to negotiate the date. I would be delighted to have that opportunity.

Mr. ANDREWS. Thank you.

Mrs. FORSYTHE. Thank you, Mr. Page.

Did your colleagues have anything they wish to say at this time?

Dr. HUTCHINSON. It is a pleasure to see you again.

Mrs. FORSYTHE. Thank you very much.

[The following material was subsequently supplied for the record:]

ANSWERS TO QUESTIONS RAISED BY SENATOR RANDOLPH REGARDING IMPLEMENTATION OF THE VOCATIONAL REHABILITATION PROGRAM IN FLORIDA

1. Have there been any changes administratively or operationally from that which is directed in the most current approved State Plan?

   Florida notified HEW that it would continue to administer the VR program as prescribed in its 1975 plan until March 1, 1976. As of March 1, 1976, District Administrators began to assume responsibilities for district operations. Reorganization has created little difference in the actual administration of the program as it effects the provision of VR services to eligible clients. VR funding and personnel are clearly identified and services are limited to the target populations required by the VR Act.

2. Describe type and extent of assistance provided by HEW federally and regionally.

The extent of cooperation from HEW, federally and regionally, can be seen from the following chronology:

- June 2, 1975 - Florida's Reorganization Act signed by Governor.
- July 21, 1975 - Deputy Regional Director of Region IV, and selected staff, including Dr. Cornett, Regional Director, Office of Rehabilitation Services met with DHRS and other Florida officials to present their concerns regarding the Reorganization Act and offer technical assistance.
- August 14, 1975 - Official amendment to reflect reorganization transmitted for inclusion in the 1976 Plan previously submitted.
- August 25, 1975 - Regional RSA office requested additional information.
- September 8, 1975 - DHRS transmitted information.
- September 19-23, 1975 - Regional RSA Office by telephone requested additional information.
- September 24, 1975 - DHRS transmitted information.
- September 29, 1975 - Regional RSA Office wrote Secretary Page indicating areas of concern regarding the State Plan.
- November 4, 1975 - Commissioner Adams wrote Secretary Page indicating his concern regarding the plan.

- November 18, 1975 - Secretary DHRS met with Commissioner Adams in Washington to discuss plan. Agreement reached to explore alternatives.
- December 4, 1975 - Regional and National RSA staff met with DHRS staff to discuss alternatives. Significant progress towards resolution of differences was made.
- December 9, 1975 - DHRS redrafted plan along lines discussed at December 8 meeting.
- December 30, 1975 - DHRS representatives met in Atlanta with Regional RSA legal staff to discuss revisions and secure technical assistance.
- January 2, 1976 - Revised 1976 Plan submitted by DHRS to Regional Office.
- January 16, 1976 - DHRS representatives met in Atlanta with Regional and National RSA staff to discuss additional areas of concern to RSA.
- January 17-18, 1976 - Several telephone conversations with DHRS and Regional Staff.
- January 28, 1976 - Dr. Cornett and staff met with DHRS's Secretary in Tallahassee regarding remaining areas of concern.
- January 30, 1976 - Clarifying amendments with no substantive changes were made in the VR State Plan and transmitted by DHRS to Regional Office.

3. What cost control methods will be implemented?

Basically the same cost control methods that have been utilized in the past will continue to be utilized when the FY '76 VR State Plan is implemented. All programs will continue to utilize departmental fee schedules. Any expenditures, including those for which a fee schedule is not applicable, must be in accordance with departmental standards as prescribed by the Secretary based on input from the Assistant Secretary for Administrative Services Office (formerly the Division of Administrative Services) and the VR Program Office under the Assistant Secretary for Program Planning and Development (formerly the Division of Vocational Rehabilitation). Internal audits will be conducted by the Assistant Secretary for Administrative Services Office. This is essentially the same procedure utilized in the 1975 VR State Plan.

All expenditures must be in accordance with an approved budget. Budgets in Florida are quite detailed. Although District Administrators have authority to transfer up to 10% of a budget from one program to another, upon approval of the Secretary, this provision only applies to General Revenue and not the federal funds under the VR Act. Furthermore, the authority to transfer funds existed under prior law and has never been utilized to the detriment of the VR program.

4. How will uniformity be provided for cost controls and case management techniques?

Under the proposed FY 76 VR State Plan, the first step in assuring uniformity will be development of VR case management standards and procedures by the VR Program Office. These standards will be coordinated with the Department's district cases management system. Cost control standards will be developed by the Assistant Secretary for Administrative Services in coordination with the VR Program Office. These standards will be established by the Secretary and all district service programs will be administered in conformity with these procedures. Standards and procedures will be as detailed as required to assure program uniformity. The VR Program Office will monitor district operations to determine if VR standards are met and, when necessary, assure that appropriate corrective action has been taken. Statewide uniformity is a state plan requirement for the VR program.

Mrs. FORSYTHE. Our next witnesses are representing the National Rehabilitation Association (NRA) and the National Rehabilitation Counseling Association (NRCA), Dianne S. Roupe, executive director, National Rehabilitation Association; Charles R. Hutchinson, rehabilitation specialist for Developmental Disabilities, Mental Disabilities, Mental Health and Addictive Disorders subprograms, Division of Vocational Rehabilitation, St. Paul, Minnesota; Ann Crumpton, project director, Knoxville Comprehensive Rehabilitation Consortium, division of Vocational Rehabilitation, Knoxville, Tennessee; Terence O'Rourke, director, Communicative Skills Program, National Association of the Deaf.

Ms. Roupe, I believe you are chairing the panel.

Would you please proceed?

STATEMENT OF DIANE S. ROUPE, EXECUTIVE DIRECTOR, NATIONAL REHABILITATION ASSOCIATION, INC.; CHARLES R. HUTCHINSON, REHABILITATION SPECIALIST FOR DEVELOPMENTAL DISABILITIES, MENTAL HEALTH AND ADDICTIVE DISORDERS SUBPROGRAMS, DIVISION OF VOCATIONAL REHABILITATION, ST. PAUL, MINN.; ANNE D. CRUMPTON, PRESIDENT, NATIONAL REHABILITATION COUNSELING ASSOCIATION AND PROJECT DIRECTOR, KNOXVILLE COMPREHENSIVE REHABILITATION CONSORTIUM, DIVISION OF VOCATIONAL REHABILITATION, KNOXVILLE, TENN.; AND TERENCE O'ROURKE, DIRECTOR, COMMUNICATIVE SKILLS PROGRAM, NATIONAL ASSOCIATION OF THE DEAF, A PANEL

Ms. ROUPE. Thank you very much, Madam Chairman.

I am Diane Roupe, executive director of the National Rehabilitative Association. Accompanying me is Mr. Charles R. Hutchinson, rehabilitation specialist in the Department of Vocational Rehabilitation, St. Paul, Minnesota. And may I introduce Mrs. Ann Crumpton, president of the National Rehabilitation Counseling Association which she is representing, and project director of the Knoxville Comprehensive Rehabilitation Consortium, Knoxville, Tennessee; and Mr. Terence O'Rourke, director of the Communication Skills Program, National Association of the Deaf, who today is representing the National Rehabilitation Task Force on Deafness.

We have had a special task force on deafness over a period of years, and we are presenting as part of our testimony this morning the findings of that task force.

We are very pleased to be here this morning, and appreciate the opportunity to submit our testimony, which is rather lengthy, and therefore we will not go into all of the details, but we shall highlight it for you.

We would like to express our appreciation to this subcommittee and to Senator Randolph, if you would pass on the word, that we feel these words are very timely on matters of great concern regarding various aspects of the Rehabilitation Act of 1973.

Also for the record we desire to commend Senator Randolph for his long-time commitment to rehabilitation. He has been a strong supporter, and has personally demonstrated his desire to satisfy and serve the needs of the handicapped population of our Nation.

We very much commend him for this.

The National Rehabilitation Association has appeared before this subcommittee many times, so we will not need to review the nature of the association. Although because of comments that have been made earlier in the morning, I think it is appropriate that it be restated that the association is a private, nonprofit, voluntary association of 35,000 members.

We have one purpose which our constitution says is to advance the rehabilitation of all handicapped persons.

We have approximately 35,000 members who represent professionals within the field of rehabilitation, consumers, volunteers, students, and interested citizens.

The private, nonprofit voluntary association is one of the keynotes of our free society, and it is what makes America great, that a private, nonprofit association can come to this Congress and express its interests based upon our desire to serve in a better capacity the handicapped persons of this country.

That is our only interest. That is the only reason we are appearing before you today.

We are not representing a special interest group, except the handicapped persons. Handicapped persons are our special interest group.

We will limit our comments with regard to the State organization of vocational rehabilitation programs, which has been a central focus of the morning's comments. Rehabilitation itself has proven to be a very effective, successful approach to meeting the problems of handicapped persons. It is at the heart of a free society. It is at the heart of the Christian-Judaic ethic upon which this country was founded. It embraces belief in the worth and potential of every human being; the right of every citizen to the opportunity to learn, enjoy, and contribute to his family, community, and society, in general; the inherent desire of every person for independence—financially and personally; the virtue of work and constructive activity; and the joint responsibility of the individual and society in manifesting these principles of life.

The philosophy of self-determination and help to each other to help ourselves is embedded in rehabilitation. It acknowledges the interdependence of all people, and, at the same time, recognizes the essentiality of assumption of responsibility for one's self insofar as one is capable.

Rehabilitation is a viable alternative to the "welfare State." Rehabilitation stands for evaluation, education, training, self-support insofar as possible, and human dignity.

This Congress, and the people sitting at this table do not need to have any explanation of the great concern of our whole Nation today in these hallowed halls, and throughout this country, of economic situations which face us.

Here is one program that the record will show is cost-effective. We have not done a very good job of explaining the cost-effectiveness of vocational rehabilitation. It is not a dole. It takes taxpayers' dollars to train and help persons in order that they may be self-supporting insofar as they are capable. It is tremendously cost-effective.

Also, its success has been proven insofar as human dignity and the provision for human beings in our Nation, citizens of our country, to be everything that God allows them to be, and that is at the heart of what we are saying here today.

Specifically, we believe that the administrative structure which is provided for currently in the Rehabilitation Act of 1973 is very workable. We believe at this time it is the best system for the provision of services.

As I will speak to a little later, we do not believe that the proposed system of the State of Florida is a better system or a more workable system. We are always open to a better way of doing things, and a more workable way of doing things.

We do not believe that the proposal of the State of Florida is a better, more workable system.

Specifically, the National Rehabilitation Association supports the language of the law with respect to the designation of a State agency as the sole State agency to administer the plan. We subscribe to:

One: The designation of a State agency as the sole State agency to administer the plan.

Two: The provision that the State agency designated shall include a vocational rehabilitation bureau, division, or other organizational unit which is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, has a full-time director, and has a staff employed on such rehabilitation work of such organizational unit, all, or substantially all of whom are employed full time on such work.

What that means to us, and the reason we support it, is in order to deliver rehabilitation services to handicapped persons, and in order for it to be successfully delivered, there is professionalization and specialization involved.

I think that this is not understood by the general public, and it is not understood by the taxpayer.

This very committee, through the Rehabilitation Act, has supported training to the tune of millions of dollars over many years to train specialized persons in the field of rehabilitation in order to deliver the successful service to handicapped people. That is why it is so successful, is because of the very specialization and very educational level which this committee has seen fit to support, and which we strongly endorse.

In addition, by having the unit of the State solely responsible for the delivery of rehabilitation programs, it preserves the integrity of the program. There is a straight line of authority, and it is the most effective system costwise and administrativewise.

Another reason for the success of the current plan for the delivery of vocational rehabilitation under the Rehabilitation Act of 1973, we believe, is the fine cooperation which exists among the State, Federal, and private sectors.

The Federal-State program is well known, and well documented, and has been discussed at length this morning.

What perhaps has not been discussed as greatly is the network and cooperative arrangement with the many, many private facilities throughout this Nation. We have approximately 2,800 rehabilitation facilities in this country, both private and public, but many of them are private. They are supported through United Way, individual contributions of great amounts of money.

Through the Rehabilitation Act, and through the manifestation of the programs to deliver services to handicapped persons, it has become one of the finest models of the United States of America in successful cooperation between private and public sectors.

I think we can be very, very proud of it. NRA believes, and I personally believe, that vocational rehabilitation program through the Rehabilitation Act of 1973 is one of the most, if not the most, successful human service delivery programs in this nation, and that is quite a statement. I think the record supports that.

We are extremely concerned with regard to the conflict between the Florida law and the Rehabilitation Act of 1973. In the supporting materials, Madam Chairman, which you do not have, I do not think everyone present has the supporting materials, but we have presented for you a chart which shows the reorganization plan of the department of health and rehabilitative services for the State of Florida. The Florida law is very clear with regard to the lines of authority for the provision of human services, including vocational rehabilitation within the State.

The secretary, of course, has the ultimate authority, and he is appointed by the Governor of the State. The deputy secretary is appointed by the secretary. Then the law provides for these assistant secretaries, one for administration, one for operations, and one for program planning and development. These three assistant secretaries are also appointed by the secretary. Then the law provides for 11 district administrators, who are also appointed by the secretary.

Now, the point I am trying to make is that the line of authority for the program goes from the secretary to the assistant secretary for operations, district administrators, and quoting directly from the law, the assistant secretary for operations shall be responsible for and have line authority over all service program operations of the department. However, he shall delegate as much authority for administration of service programs within the district as possible to the respective district administrators. So clear line of authority is provided for in the law.

The current person whom we generally call in most States the director of vocational rehabilitation, and who would be full-time Director, as described in the Rehabilitation Act of 1973, under the Florida law would be known as the program staff director. Each of the eight agencies that are integrated to rehabilitation services department in Florida now have what is known as a program office. The persons who are directors of the program offices are appointed by, and serve at the pleasure of, the secretary, and are responsible to the assistant secretary for program planning and development.

The assistant secretary for program planning and development is precluded in the law from any line authority for the operations of the programs. So, therefore, not only does the person we currently consider director of vocational rehabilitation have no line authority to the district administrator, where services are all delivered, his immediate superior has no line authority in this line of provision of services. This is in direct violation, we believe, of the intent and language of the Rehabilitation Act of 1973.

Further, wth regard to the financing of services under the Florida law, it makes two provisions which are in violation of the Rehabilitation Act. First, the secretary of the department has the right to transfer 5 percent of one district's budget to another district's budget, and within the district the district administrator has the right to transfer 10 percent of his moneys. This is all going to you in detail, and we provide for the committee a brief of Florida law, as well as a copy of the law itself. I am trying to just give you the highlights of it.

Therefore, we take the stand, as I stated earlier, that Florida is in conflict with the Rehabilitation Act of 1973, and we are further gravely concerned, because we feel that Florida is not in compliance with reference to their approved State plan.

I have a letter here, and you have it in your exhibits, dated February 17, 1976, from Mrs. Irene Burnette, who is one of the new district administrators within the State of Florida. This letter is outlining new staff assignments within her district.

We have marked for you the personnel who have previously been vocational rehabilitation personnel. Some of them are being supervised by persons outside the rehabilitation program. In other cases, vocational rehabilitation personnel are supervising people who are not in the vocational rehabilitation program. In other words, there is a mixing up of the professionals, and therefore, certainly moneys which are going to go for vocational rehabilitation may not be providing direct services to handicapped persons.

There is another exhibit which is a letter from Mr. William J. Page, Jr. secretary of health and rehabilitative services in the State of Florida, dated December 11, to Dr. Andrew Adams, Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, Washington, D.C.

In this letter Mr. Page said: "Thus by this letter we are assuring you that we are continuing to operate under our fiscal year 1975 approved State plan, pending approval of our proposed fiscal year 1976 State plan."

We respectfully submit to this subcommittee that Florida, the State of Florida, is in fact not operating under fiscal 1975 State plan.

The National Rehabilitation Association asks this committee and the Congress to look into this matter, and to assure that the State of Florida is using moneys supplied under the Rehabilitation Act of 1973 for the purposes outlined in the act. If they are not complying with an approved State plan, we are calling upon the Congress to request the Secretary of Health, Education, and Welfare that funds to Florida be suspended or withheld until a plan is approved.

Lastly, we are in opposition to the proposed amendment to the Rehabilitation Act. We have not read the full act as it will be submitted. However, we did read the amendment to an amendment which was sent over from the administration earlier. I assume that the language would be similar. We are opposed to this amendment because we believe it would not be in the interest of handicapped persons in the State of Florida or any other State. We believe that this plan should be continued, and we pledge ourselves to do everything possible as a private voluntary association to make our services better, to assure greater cooperation among agencies, and to do whatever we can to make services to the handicapped persons in the United States of America better, and to improve them in the future.

We thank you very much for the opportunity to be here.

Mrs. Forsythe. Thank you.

[The prepared statement of the National Rehabilitation Association, Inc., as presented by Ms. Roupe, follows:]

STATEMENT OF THE
NATIONAL REHABILITATION ASSOCIATION, INC.

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

IN HEARINGS CONDUCTED

ON THE REHABILITATION ACT OF 1973

AS AMENDED

February 24, 1976

Mr. Chairman, I am Diane Roupe, Executive Director of the National Rehabilitation Association. Accompanying me is Mr. Charles R. Hutchinson, Rehabilitation Specialist in the Department of Vocational Rehabilitation, St. Paul, Minnesota. And may I introduce Mrs. Anne Crumption, President of the National Rehabilitation Counseling Association which she is representing, and Project Director of the Knoxville Comprehensive Rehabilitation Consortium, Knoxville, Tennessee; and Mr. Terrence O'Rourke, Director of the Communication Skills Program, National Association of the Deaf, who, today, is representing the National Rehabilitation Association Task Force on Deafness.

The National Rehabilitation Association appreciates the opportunity to appear before the Subcommittee on the Handicapped to discuss important matters of common concern relative to the Rehabilitation Act of 1973 (Public Law 93-112), as amended.

We would like to express our appreciation to this Subcommittee for expeditiously conducting this series of oversight hearings on the important issues at hand. This Subcommittee is to be commended for its continuous record of support for comprehensive and well-balanced legislation designed to meet the needs of handicapped persons, which is typified by the Rehabilitation Act of 1973 and its amendments.

Senator Randolph, we especially want to thank you, as Chairman of this Subcommittee, for your personal, demonstrated commitment to the provision of effective programs for handicapped persons in our nation.

The National Rehabilitation Association has appeared before this Subcommittee many times, and I feel certain that you are familiar with the fact that the National Rehabilitation Association is a fifty-year old, nonprofit, voluntary association of approximately 35,000 members who are professional persons in the field of rehabilitation, consumers, volunteers, students, and interested citizens. Our sole purpose is "to advance the rehabilitation of all handicapped persons."[1]

At this oversight hearing, the National Rehabilitation Association would like to present testimony on the following areas of concern:

A. State Organization of Rehabilitation Programs
B. Services to Severely Disabled Individuals
C. Innovation and Expansion Grants
D. Rehabilitation Research
E. Training
F. Client Assistance Projects
G. Title V Programs

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[1] "Constitution", National Rehabilitation Association, Article II.

STATE ORGANIZATION OF VOCATIONAL REHABILITATION PROGRAMS

The National Rehabilitation Association strongly endorses and supports the state-federal administrative structure for carrying out the programs of the Rehabilitation Act of 1973, as defined in said Act.

We support the language of the law (Section 3[a], Public Law 93-516) which establishes "in the Office of the Secretary, a Rehabilitation Services Administration which shall be headed by a Commissioner appointed by the President by and with the advice and consent of the Senate. Except for Titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act".

We support the language of the law (Section 101[a], Public Law 93-112) and the intent of Congress with respect to the prescribed state organizational structure to carry out programs which are described and funded under the Act. Specifically, we subscribe to:

1. The designation of 'a State agency as the sole state agency to administer the plan." (Section 101[a][1][A]).
2. The provision "that the State agency designated... shall include a vocational rehabilitation bureau,

> division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full-time on such work." (Section 101[a][2][A]).

The state-federal vocational rehabilitation program has undergone continuous, heightened levels of refinement, professionalism, and effectiveness - with respect to cost and human service - through the above described administrative structure. In fact, the rehabilitation model which has emerged from this effort, holds the answer to many of the human and economic woes which plague our country.

Rehabilitation is a concept born of the most basic principles upon which this nation was founded. It embraces belief in the worth and potential of every human being; the right of every citizen to the opportunity to learn, enjoy, and contribute to his family, community, and society, in general; the inherent desire of every person for independence - financially and personally; the virtue of work and constructive activity; and the joint responsibility of the individual and society in manifesting these principles of life. The philosophy of self-determination and help to each other to help ourselves is embedded in rehabilitation. It acknowledges the interdependence of all people, and, at the same time, recognizes the essentiality of assumption of responsibility for one's self insofar as one is capable.

Rehabilitation is a viable alternative to the "welfare state". Rehabilitation stands for evaluation, education, training, self-support insofar as possible, and human dignity.

Economically, the merits of rehabilitation have been proven and documented. Rehabilitation is not a 'dole', rehabilitation is a sound investment by taxpayers and private contributors which returns full principal with bullish interest.

A major element of the rehabilitation concept is belief that every person is a unique individual with his own talents and needs, and that similarities, such as possession of a disability, do not override the necessity for the individualized approach to rehabilitation programming.

Success of the rehabilitation process has been achieved through a network of services in each of our fifty states which encompasses the state vocational rehabilitation agencies and approximately 2,800 private and public rehabilitation facilities throughout the country. This network is one of the finest examples of a successful cooperative effort between the public and private sectors in our nation. Under the Rehabilitation Act of 1973, the basic state grant program is funded 80 percent by the federal government and 20 percent by the state government. Private facilities are greatly assisted by grants and program assistance made available under the Act, but also have strong support from private resources. The National Rehabilitation Association supports this funding approach for rehabilitation programs.

Success of the rehabilitation process is enhanced by cooperation with other agencies which can provide needed services to clients. One of the reasons for success of the rehabilitation model has been the fact that it addresses itself to the entire life of a client. Intrinsic to this methodology is the necessity for involving many different types of resources to meet a myraid of individual client needs.

We support the desirability of expanded cooperation and utilization of all possible agencies, organizations, and resources in rehabilitation service delivery. We do not believe this is achieved by amalgamating specialized human service agencies. On the contrary, it is the very specialization and concentrated training by professionals in each of these human service areas which is the cause of success. The general public does not understand the high level of education and necessary specialization which are required to render effective human services. Counseling of post-accident clients involves techniques different from services to youth. Professionals specializing in retardation have different skills from professionals who work in the area of special problems of the aging.

The Rehabilitation Act of 1973 prescribes an administrative plan which accomplishes the indispensable requirements of agency specialization, professionalism, integrity, and accountability.

Intrinsic to this concept, is funding through categorical grants. It is the only way the Congress has of assuring that federally legislated programs are carried out and the federal taxpayer has of controlling and knowing where his tax dollar is spent. When the Congress imposes federal taxes upon individuals, and sends those tax dollars to a third party for expenditure determination, that is taxation without representation. The National Rehabilitation Association supports categorical funding to the states for the operation of vocational rehabilitation programs. The Rehabilitation Act provides a guarantee that money authorized and allocated under it will be spent to meet the specialized needs of handicapped citizens.

Any breakdown in the identifiable organization responsible for the vocational rehabilitation program - full-time director - categorical funding approach to the state organization plan for implementing programs available under the ReHabilitation Act of 1973 would most assuredly destroy the rehabilitation program in this nation which would paralyze services to our handicapped population.

The National Rehabilitation Association fervently supports these points of view solely because we believe this to be the proven and best way to provide services to handicapped persons. We do not indulge in turf-protection. We are pledged to continuous improvement of rehabilitation services, and we are constantly seeking better, more effective ways of realizing our goals. In nothing that has been said in this testimony, do we mean to imply perfection. As in all endeavors on this earth, there are always corrections which can be made; performance can always be better. Let the rehabilitation concept and the effective program made possible by Acts of Congress over the years stand on their own record.

Non-Compliance of the State of Florida

The National Rehabilitation Association is gravely concerned about the conflict of a new Florida law (chapter 75-48, Laws of Florida) with the Rehabilitation Act of 1973, as amended. Said Florida law is attached hereto and marked, "Exhibit 1".

The basis for our concern is two-fold. First and foremost, we are deeply concerned about the dire consequences we believe this new law will have on handicapped persons in need of rehabilitation services in the State of Florida. Second, we are concerned about the conflict of the new Florida law with certain provisions of the Rehabilitation Act of 1973, as amended.

This is much more than a problem with a single state. If Florida is allowed to act in violation of Public Law 93-112, other states could do likewise, thereby seriously threatening services to handicapped persons in such states.

In summary, the Florida law reorganizes eight human service agencies, including vocational rehabilitation, into one huge department known as the Department of Health and Rehabilitative Services. Section 2(1) of the Florida law states that, "The purposes of the reorganization of the Department of Health and Rehabilitative Services is to integrate the delivery of all health, social, and rehabilitative services offered by the state to those citizens in need of assistance."

Organizational charts for the new department are attached hereto and marked, "Exhibit 2". The law provides that, "The secretary shall be appointed by the governor subject to confirmation by the senate" (Section 2[2][a]). The law further provides that, "The secretary shall appoint a deputy secretary" (Section 2[2][b]), and that, "The secretary shall appoint an assistant secretary for operations, an assistant secretary for program planning and development, and an assistant secretary for administrative services, each of whom shall serve at the pleasure of and be directly responsible to the secretary." (Section 2[3][a]).

The Florida law establishes eleven service districts and states that, "The department shall plan and administer its program of health, social, and rehabilitative services through service districts" (Section 2[4][a]). It further provides that, "The secretary shall appoint a district administrator for each of the service districts" (Section 2[4][b]).

Responsibilities of the assistant secretaries are defined in the law, as follows:

"The assistant secretary for operations shall be responsible for and have line authority over all service program operations of the department.* However, he shall deligate as much authority for the administration of service programs within the districts as practicable to the respective district administrators"* (Section 2[3][b]).

"The assistant secretary for program planning and development shall have responsibility for general statewide supervision of the administration of service programs operated by the department.* General statewide supervision of the administration of service programs shall mean service program development and planning; program research; identifying client needs and recommending solutions and priorities; developing client service programs, including the policies and standards therefor; providing technical assistance to the district administrators; assisting the district administrators in staff development and training;* reviewing and monitoring district-level program operations; assuring compliance with statewide program standards and performance criteria; assuring uniform program quality among districts; developing funding sources external to state government; and obtaining, approving monitoring and coordinating research and program development grants; but shall not involve line authority over any service program operations of the department, including the management of institutions and residential treatment programs"* (Section 2[3][a]).

"The assistant secretary for administrative services shall be responsible for providing administrative and management support services above the district levels; monitoring administrative and management support services in the districts; developing uniform policies, procedures and guidelines with respect to personnel administration, finance and accounting, budget, grants management and disbursement,* procurement, information and communications systems, management evaluation and improvement, and general services, including housekeeping, maintenance and leasing facilities" (Section 2[3][d]).

The Florida law establishes eleven service districts and states that, "The department shall plan and administer its program of health, social, and rehabilitative services through service districts" (Section 2[4][a]). It further provides that, "The secretary shall appoint a district administrator for each of the service districts. Each district administrator shall serve at the pleasure of the secretary and shall be directly responsible to the assistant secretary for operations" (Section 2 [4][b]).

Responsibilities of the district administrators are defined in the law, as follows:

> "Each district administrator shall have direct line authority over all departmental programs assigned to the district. In addition to those responsibilities assigned by law, the district administrator shall carry out those duties delegated to him by the assistant secretary for operations."

Eight "program offices" are established by the law, including the "Vocational Rehabilitation Program Office." As defined in the law, "The responsibilities of this office encompass all vocational rehabilitation programs operated by the department." (Section 2 [3][c]2.e.)

Section 2(3)(c)1. of the law stipulates that, "Program offices shall be designed to operate in a staff capacity to the assistant secretary for program planning and development. Each program office shall be headed by a program staff director [former Director of Vocational Rehabilitation] who shall be appointed by and serve at the pleasure of the secretary and be directly responsible to the assistant secretary for program planning and development.* The assistant secretary for program planning and development shall delegate to the program offices the following responsibilities, which shall include, but not be limited to:

a. Identification of client needs;
b. Intra-program policy development;
c. Short-term and long-term intra-program planning;
d. Intra-program standards setting, monitoring, and quality control;
e. Intra-program staff development, training and technical assistance programs;
f. Advising the assistant secretary for program planning and development and others within the department, upon request, on issues within their areas of substantive expertise;
g. Acting as liaison when assigned by the assistant secretary for program planning and development to other governmental agencies and the public or programmatic issues;
h. Developing state program plans;
i. Developing resource forecasts and working within the state on community resource development;
j. Quality control;
k. Statewide supervision of the administration of service programs; and
l. Any other program planning and development duties assigned by the secretary."

* Underlining not included in text of chapter 75-48, Laws of Florida.

Thus, the law is clear that:

1. Responsibility for, and line authority over all service program operations of the department, including vocational rehabilitation run from the Secretary to the Assistant Secretary for Operations to the District Administrators.

2. The former Director of Vocational Rehabilitation is now Program Staff Director in the Vocational Rehabilitation Program Office. The Program Office is designed to operate in a staff capacity to the Assistant Secretary for Program Planning and Development.

3. The Assistant Secretary for Program Planning and Development is specifically precluded from line authority over any service program operations of the department.

4. The department shall plan and administer its programs of health, social, and rehabilitative services through service districts headed by District Administrators. Not only does the Program Staff Director (former Director of Vocational Rehabilitation) in the Vocational Rehabilitation Office have no line authority over

> the District Administrations, but the Assistant Secretary for Program Planning and Development is specifically precluded from line authority over any service program operations of the department.

It is clear that these administrative arrangements prescribed in chapter 75-48, Laws of Florida, are in conflict with the language and intent of the Rehabilitation Act of 1973 (Public Law 93-112) in that: Section 101(a)(2)(A) of P.L. 93-112 provides "that the state agency designated... [as the sole State agency to administer the plan] shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full-time on such work."

In addition, the Florida law designates as one of the "duties" of the district administrator, the following: "Transferring up to 10 percent of the total district budget with the approval of the secretary to maximize effective program delivery" (Section 2[4][c]8).

Further, Section 2 [8][a and b] specify that, "(a) The secretary shall develop and submit annually to the legislature a comprehensive departmental summary budget document which shall array district budget requests along program lines. This summary document shall, for the purpose of legislative appropriation, consist of four district budget entities:

1. Office of the Secretary;
2. Office of the Assistant Secretary for Administrative Services;
3. Office of the Assistant Secretary for Program Planning and Development, and
4. Office of the Assistant Secretary for operations.

The various district budget requests shall be included in the comprehensive departmental summary budget document. (b) To fulfill this responsibility, the secretary shall have the authority to review, amend, and approve the annual budget request of all departmental activities. In addition, and the provisions of ss. 216.22 and 216.351 notwithstanding, the secretary, whenever deemed necessary by reason of significantly changed conditions, may transfer funds between the approved operating budgets of the districts. The total of such transfers may not exceed 5 percent of the operating budget of an individual district during any fiscal year.

Under the above two provisions of the Florida law, funds authorized and appropriated under the Rehabilitation Act of 1973, and Amendments, could be diverted to programs other than those defined in said Act.

Section 101(a) of the Rehabilitation Act of 1973 requires each state participating in programs under Title I of said Act to "submit to the Secretary for his approval an annual plan for vocational rehabilitation services."

Material from the Department of Health and Rehabilitative Services, State of Florida, marked, "Exhibit 2" and "Exhibit 3" attached hereto, indicates that the State of Florida is not in compliance with their currently approved state plan, which is attached hereto and marked, "Exhibit 4", even though William J. Page, Jr., Secretary of the Department of Health and Rehabilitative Services, State of Florida, assured Dr. Andrew S. Adams, Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, in a letter dated December 11, 1975, that we are continuing to operate under our FY 1975 approved State Plan pending approval of our proposed FY 1976 State Plan". Said letter is attached and marked "Exhibit 5".

The National Rehabilitation Association understands that, after considerable negotiation between the State of Florida and the Department of Health, Education, and Welfare, over the past few months, the State of Florida has not submitted an approvable State Plan for FY 1976. The National Rehabilitation Association calls upon this Subcommittee and the Congress to request the Secretary of Health, Education, and Welfare to promptly suspend or withhold the allocation of funds to the State of Florida granted under the Rehabilitation Act of 1973, and Amendments if said State is not operating its vocational rehabilitation program in compliance with its approved State Plan.

SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

With the passage of the Rehabilitation Act of 1973, the Congressional intent that services to severely handicapped individuals be reemphasized became clear. Committee reports at the time the legislation was passed indicate, however, that with the increased emphasis on serving the severely handicapped, there should be no diminution in the number of individuals who are currently being served.

In conference, both the House and Senate agreed that state vocational rehabilitation agencies should serve, first, those individuals with the most severe handicaps; however, the conferees also made it clear that it was not their intention that the Rehabilitation Services Administration nor any state rehabilitation agency should discontinue or refuse services to any eligible handicapped individual because of the type of disability the person has.

P.L. 93-112, Section 101 (State Plans) specifies that the various states must have in their state plans a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped persons who apply for such services, show (1) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and (2) the outcome and service goals. The order of selection for the provision of rehabilitation services shall be determined on the basis of serving, first, those individuals with the most severe handicaps.

The National Rehabilitation Association wholeheartedly agrees with the Congressional mandate to provide increased emphasis on services to individuals with the most severe handicaps, and state vocational rehabilitation agencies have been doing a creditable job in achieving this goal. It is noted that in Fiscal Year 1975 the state vocational rehabilitation agencies rehabilitated 324,039 individuals of whom 35.7 percent were defined as having severe disabilities. This represents an increase of almost 5 percent in the proportion of individuals with severe disabilities who were rehabilitated in Fiscal Year 1975 as compared with Fiscal year 1974. The Rehabilitation Services Administration projects that by Fiscal Year 1981, the state vocational rehabilitation agencies will rehabilitate 500,000 disabled individuals of whom approximately 50 percent will be considered as having severe disabilities. Even such, this number represents only a very small proportion of the total disabled population.

In responding to the emphasis now being placed on the severely disabled in a state-federal vocational rehabilitation delivery service system, attention must be focused on the additional demands of staff, financial and community resources, and the increased time necessary to develop a responsive, accountable, and individualized program for the client. Inherent in this type of responsive program for the severely disabled are additional issues which need to be reviewed. These include:

(1) Definitions

P.L. 93-112 attempts to define severe disability as one which requires multiple services over an extended period of time. Numerous examples of various types of impairments are listed as being among those which could be considered severe disabilities. Because of the requirements of the law it has become necessary to put into operation this imprecise definition. Many state vocational rehabilitation agencies have found that some clients with particular types of impairments clearly meet the definition of severe disability. Other clients clearly do not meet the definition. However, with the advent of the definition, a polarization of "severe and non-severe" disability types or categories has been created, along with a large "in-between" or "grey area" in which it is difficult to make a judgment as to whether or not the client meets the definition of severe disability. For example, there is a question as to whether a client with numerous minor impairments which, of course, would require multiple services over an extended period of time, actually meets the definition of severe disability. In view of the limited resources available and the necessity for careful utilization of those resources, the counselor's decision in this area will be the determining factor as to whether services will be provided to the disabled individual.

It is noted that the issue of definitions is being studied on a contractual basis and it is hoped that useful information will be forthcoming.

One possible resolution to this problem that should be considered by Congress - and which we believe to be a very viable alternative - would be to more clearly define the criteria for eligibility and then provide sufficient appropriations to allow the various state vocational rehabilitation agencies to serve all of those individuals who meet these criteria. In establishing a base line such as this, there would be an elimination of: (1) the possible polarization of severe and non-severe disability categories, (2) the large grey area requiring subjective judgment on the part of the counselors, and, (3) some of the confusion which now exists on the part of the client, who is wondering why his handicap must be labeled severe or non-severe.

(2) Appropriations

As previously indicated, state vocational rehabilitation agencies have been doing a creditable job in serving more and more severely disabled individuals. Approximately one-third of those clients who complete a program of rehabilitation are considered to have severe disabilities. This increase in the number of rehabilitations of severely disabled individuals has occurred without any significant increase in the appropriations provided for services. It is generally recognized that it costs from two to two and one-half times more money to rehabilitate a severely disabled individual as compared with the costs for rehabilitating a non-severely disabled individual. Therefore, the shift in emphasis to providing services to more severely disabled individuals has necessitated an adjustment by the vocational rehabilitation agencies in order to provide more money for the costs of rehabilitating fewer people. Added to this are the additional costs created by such legislative mandates as the individualized written rehabilitation plan, post employment services and annual reviews of ineligibility. All of this is done within what might be considered as "constant dollars". It is generally accepted that the overall increase in inflation in the United States has amounted to 7 percent or more for the past several years. However, the increase in appropriations for programs authorized by the Rehabilitation Act for the past few years has amounted to only approximately 5 1/2 percent per year since 1969. The increase in appropriations has not kept pace with the increase in costs of inflation notwithstanding the greater costs necessary to rehabilitate more and more severely disabled individuals. If the mandate of Congress emphasizing the rehabilitation of more severely disabled individuals is to be fully met, then appropriations must be increased greatly, especially if non-severely disabled persons who equally need vocational rehabilitation services are not to be neglected.

(3) Placement

Even with the increased emphasis on providing services to more severely disabled individuals, the outcome of a successful closure continues to be vocational. This is as it should be. The history of the vocational rehabilitation program has been one of helping disabled individuals return to or achieve, for the first time, gainful employment. There should be no attempt to change the major focus of the program. It should be recognized, however, that the placement of severely disabled individuals, even after the provision of necessary services, sometimes becomes very difficult. Within the past few years the unemployment rate has exceeded 8 percent nationally and the problem of finding a job even for the unimpaired individual becomes very difficult.

Several factors can improve this situation, including the enforcement of provisions in Sections 501, 503, and 504 of the Rehabilitation Act. We will speak to this issue later in our testimony. In addition, any federal legislation enacted into law which creates jobs for large numbers of American citizens should take into account special needs of handicapped people. There should be assurances that qualified handicapped persons would be given top priority in the filling of any jobs created through enactment of legislation of this type.

(4) Evaluation Systems

To determine the effectiveness of the various programs authorized by the Rehabilitation Act, especially as they relate to the provision of services to severely handicapped individuals requires a greater emphasis to be placed on the evaluation systems. There must be improved methods by which state vocational rehabilitation agencies can evaluate the quality of services being provided to severely handicapped individuals. The degree of accountability being applied, accreditation, case management techniques, and other types of quality controls must also be a part of the evaluation system. Evaluative systems must include the utilization of consumer advisory panels to assist state vocational rehabilitation agencies in maintaining high standards of quality and effectiveness.

The National Rehabilitation Association supports the evaluative requirements mandated by law especially with the increased emphasis as outlined. It should also be recognized that increased appropriations are necessary to carry out an effective evaluation system.

As initially stated, the National Rehabilitation Association supports the increased emphasis being given to the rehabilitation of severely handicapped individuals; however, it becomes evident that if we are to fully serve all handicapped individuals who are in need of services, including the severely disabled, we must clearly define the eligibility requirements, support improved research techniques and utilization, greatly increase appropriations, improve our placement techniques and expand job opportunities for handicapped individuals, and develop constructive evaluative systems that will assist in improving the total rehabilitation process.

INNOVATION AND EXPANSION GRANTS

Title I, Section 120 and 121 of the Rehabilitation Act of 1973, provides for formula allotment grants to the various states to pay for a portion of the cost of planning, preparing for, and initiating special programs, and to expand vocational rehabilitation services including programs to initiate or expand such services to individuals with the most severe handicaps. The Innovation and Expansion Grant program has proven to be a valuable method for the state vocational rehabilitation agencies to experiment with various means of improving or expanding services to the handicapped population. Numerous projects have been conducted under this authority and the grants have become essential to the quality and growth of the total program.

In recent years it has become obvious that the Administration is intent on phasing this program out to the detriment of a well balanced state vocational rehabilitation program. Regardless of the clear Congressional mandate and the great need and support that exists for this type of program, the Administration continues to recommend that the program not be funded.

The National Rehabilitation Association strongly supports the Innovation and Expansion grant program and feels that this Subcommittee's support for these activities carried out under this authority should again be clearly stated in committee reports. It is felt that the projects carried out under this authority could be effectively exapnded if the authorization and appropriation levels were to be increased.

RESEARCH

State service compenents, public and private, are faced with the necessity of understanding better the speical needs of the severely handicapped, especially those who are yet unserved. New and accurate knowledge is now demanded more than ever before, for this purpose. New methods and procedures must be developed to assist in the provision of services of a vocational rehabilitation nature, especially to the most severely handicapped. New activities in rehabilitation engineering, services to the spinal cord injured, services to end stage renal disease cases and other related activities which hold promise of increasing knowledge and improving methods in rehabilitation are clearly mandated. The vocational rehabilitation program obviously cannot effectively operate basic services and carry out mandates of the Act without new knowledge and demonstrated rehabilitation processes. This demand also sharply increases the demand for monies beyond the dollars currently available to meet these requirements.

Other areas of possible needed improvement for your consideration are, directing research to actual and immediate rehabilitation problems and needs, the value of a national data bank of rehabilitation research information, provision of clearer mandates for dissemination and utilization of useful research findings, and greater consumer involvement in the total research program.

Excellent research information and outcomes is being realized through the efforts of many of the research and training centers. This should be maintained and strengthened. Research and demonstration activities of other types mandated by the Act should be carefully analyzed and strengthened since many improvements and techniques are being realized through this method also. Even better results would be realized with greater administrative support of Congressional intent and improved monitoring of grant applications to reduce overlapping and duplication. We believe the Act provides the potential for progressive research activities and can have a very positive impact upon improvements upon the quality of life of handicapped people.

TRAINING

A balanced program of training is imperative if states are to meet the increasing needs of greater skills needed to rehabilitate the severely handicapped. The Rehabilitation Act of 1973 provides appropriate authority and emphasis to meet this need. Rehabilitation organizations throughout the country, both public and private, have emphasized problems in this area, however, the current administration has not placed appropriate emphasis on training and has not shown a real responsiveness to these needs.

If quality services are to be realized, availability of needed training must keep pace with changing priorities and goals mandated by Congress. Not only must there be college and university emphasis on rehabilitation as an academic discipline but state vocational rehabilitation agencies and support organizations must have the capability to upgrade staff through in-service training and ability to purchase or receive specialized training of a short, intensive nature to improve staff skills.

A special need relative to the Rehabilitation Act of 1973 exists at this time in the area of skills for more effective rehabilitation of the severely handicapped, and for new mandates of the Act such as the individualized written rehabilitation plan, the annual review of ineligible cases, reporting on national evaluation standards, expansion of program evaluation standards at the state level, service to family members, post-employment services, policy consultation for consumer input and statewide studies for determining need for service to the severely handicapped. While these activities are extremely important to services to the handicapped, they are also activities that require new and additional training efforts and therefore, require additional funding if properly implemented. Successful and effective implementation of these progressive mandates depends on the degree of staff development in these areas. Yet in spite of this increased demand, funds for training purposes are being decreased. We are greatly alarmed by this de-emphasis in funding for training which seems in direct conflict with the Congressional intent for increased staff skills in these many areas of the Act. Training may be the greatest area of need in the states. We also have some concern about the administrative process of awarding training grants, sometimes without consumer or professional input and sometimes ignoring the recommendations where there is such input. A related concern is the staffing pattern in RSA for the purpose of training activities including the reception, handling, and monitoring of training grant applications.

Additional staff is needed to more closely conform to the emphasis Congress has placed on training.

CLIENT ASSISTANCE PROJECTS

Public Law 93-112, Section 112(a) provides for client assistance projects to be funded from monies appropriated under Section 304 (Special Projects) to include not less than seven nor more than twenty geographically disbursed regional client assistance projects. The projects were created to have the benefits available under the Act translated to clients in terms they understand, and conversely, have the rehabilitation program personnel understand the wishes of the clients in the same type of translation. The client assistance method was agreed to as a viable method to achieve these goals. It was further intended by Congress that the function of the client assistance projects would be to resolve difficulties that the clients were having with the program as quickly and amicably as possible. There appears to be eighteen client assistance projects in effect at a cost of approximately $1 million.

The National Rehabilitation Association supports the concept of client assistance projects and realizes that they serve a very real need. The National Rehabilitation Association recommends that the client assistance projects be mandated to have a definite outreach component. This will assist in providing information to those disabled individuals who may not yet be in the system. Furthermore, it is felt that these projects should be expanded and sufficient appropriations made to fully support them.

TITLE V PROGRAMS

Title V programs authorized by the Rehabilitation Act of 1973 are primarily for the purpose of assuring that the special needs of disabled individuals are considered in employment opportunities, and that their rights are protected in employment practices. The National Rehabilitation Association strongly supports the general concept of the Title V programs; however, there are some issues that we feel need further exploration.

Section 501 of Title V of the Rehabilitation Act of 1973 establishes, in the Federal Government, an interagency committee on handicapped persons comprised of members appointed by the President, including the Chairman of the Civil Service Commission, the Administrator of Veterans Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Secretary of Health, Education and Welfare and the Chairman of the Civil Service Commission serve as co-chairmen of the committee. The purpose of the committee is to provide a focus for Federal and other employment of handicapped individuals and to review in cooperation with the Civil Service Commission, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals, in the executive branch of Government. Each department, agency, and instrumentality in the executive branch is required to develop an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals.

The National Rehabilitation Association supports the provisions of Section 501, however, we find little evidence of compliance with these provisions. Therefore, the National Rehabilitation Association recommends that the interagency committee be given monitoring and inforcement authority.

Section 502. This section establishes within the Federal Government an Architectural and Transportation Barriers Compliance Board, whose first function is to insure compliance with the standards pursuant to the Architectural Barriers Act of 1968 (P.L. 90-480), as amended. The Board consists of the heads of eight excutive departments or agencies of the Federal Government. The Board's functions also include investigation and examination of alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals; determination of what measures are being taken by Federal, State, and local governments and by other public and nonprofit agencies to eliminate barriers; promotion of the use of the International Accessibility Symbol in all public facilities that are in compliance, and reporting to the President and Congress on investigations and recommendations.

The National Rehabilitation Association supports the mandated functions of the Board; however, there is much concern over the lack of activities on the part of the Board. The Department of Health, Education, and Welfare has failed to provide sufficient money for the Board or the staff to carry out its functions. Therefore, the National Rehabilitation Association would like to make the following recommendations for the purpose of strengthening the Architectural and Transportation Barriers Compliance Board.

(1) The composition of the Board itself presents an unworkable situation. It is comprised of heads of eight executive departments or agencies of the Federal Government whose job, as a Board member, is to insure that their departments comply with the accessibility standards. This means that a particular department head is obligated to inform the total Board of his department's deficiencies as they relate to accessibility standards. There is little evidence that progress is being made on the part of the Board to carry out its mandated activities. The National Rehabilitation Association recommends that the composition of the Board be changed to reflect a broader constituency. The regulating Board should have representation including handicapped

consumers, community leaders, and representatives of the rehabilitation profession.

(2) The funding provided to the Board for carrying out its function appears to be somewhat of an enigma. The authorizations for appropriations are included in the Rehabilitation Act and are authorized at $1.5 million. However, when appropriations are provided, the funds for the Compliance Board activities are included in the salaries and expenses of the Office of Human Development. The Labor-HEW Appropriations Subcommittee report of June 19, 1975, stated that "since substantial funds are included in the bill for rehabilitating handicapped individuals, it is essential that the work environment of rehabilitated handicapped individuals is accessible to them. To achieve this goal, a mandate was given to the Architectural and Transportation Barriers Compliance Board by the Rehabilitation Act of 1973. It is obvious that a permanent full-time staff is needed to perform this activity. Therefore, the Committee feels that an additional $700,000 or a total of $1 million and 20 full-time permanent positions should be provided to the Board to insure that adequate resources are devoted to this program." However, even with the intent of the Committee

being clearly stated, it is noted that the Compliance Board is funded at a level of only one-half of that which was recommended by the Committee. Furthermore, the $500,000 that is provided, is provided through the salaries and expenses budget of the Office of Human Development. The funding level of the Compliance Board can be determined by the Assistant Secretary of Human Development. It is the recommendation of the National Rehabilitation Association that funds for the Compliance Board be clearly stated in Appropriation Committee reports and that the Labor-HEW Appropriation bill have a separate line item for the funding of the Architectural and Transportation Barriers Compliance Board. It is essential that the Board be adequately funded and staffed if it is to carry out the functions that Congress has mandated.

Section 503, requires each federal contractor, with a contract exceeding $2,500, to take affirmative action to employ and advance in employment, qualified handicapped persons in carrying out such contracts. Executive Order 11758, dated January 15, 1974, gave the Department of Labor overall authority and responsibility for the implementation of Section 503, including the development of implementing regulations. The order also required that the federal procurement regulations; the Armed Services procurement regulations, and to the extent necessary, any supplemental or comparable regulations by any federal agency be amended to require contracts subject to Section 503 to require compliance within the Section and regulations issued thereunder by the Department of Labor. On June 4, 1974, the Department of Labor issued regulations to implement Section 503. The regulations required, in part, that the federal agencies include an affirmative action clause in contracts exceeding $2,500 executed after October 11, 1974. The regulations also reflected the fact that federal contractors and subcontractors with contracts exceeding $2,500 take affirmative action to employ, and advance in employment, qualified handicapped persons, including appropriate outreach and recuriting activities and actions to accommodate physical and mental limitations of employees.

A recent GAO report of the activities and implementation of the regulations revealed that only limited progress has been made by the Department and other agencies in implementing Section 503 requirements. It was noted that persons designated to be responsible for Section 503 activities in several of the Labor Department's regional offices, indicated that no routine monitoring and enforcement activity by the Labor Department was being carried out on contracts exceeding $2,500 but less than $500,000. The Department of Labor indicated that they lacked staff for such monitoring enforcement activities. It was also noted that the procedure for complaint handling by the Labor Department allowed it to make direct investigations of complaints or refer them to other agencies which were required to institute the promtp investigation of each referred complaint, however, of the many complaints received, more than half of them were still open. The Labor Department indicated that no complaints had been referred to other agencies for investigation because the personnel were not trained for such investigations.

The National Rehabilitation Association requests the Subcommittee to fully investigate the activities of the Labor Department as they relate to that Department's obligations to carry out and enforce the provisions of Section 503 of the Rehabilitation Act. Furthermore, it is felt that the law itself could be strengthened by requiring the Department to identify contractors with federal contracts of $2,500 or more and make that information available on a monthly basis to the state vocational rehabilitation agencies.

Section 504, provides that no otherwise qualified handicapped individual shall solely, by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. A recent GAO report indicated that a contact with the grants, management, equal employment opportunity, or civil rights office in HUD, HEW, GSA, DOD, Labor and Agriculture, reveal that, with few exceptions, this section of the Rehabilitation Act had not been implemented by these federal agencies.

The National Rehabilitation Association recommends that the Subcommittee give consideration to the strengthening of Section 504 by designating either the Office of Civil Rights of the Department of Health, Education, and Welfare or the Department of Justice to have the overall authority for the implementation of Section 504, and encouraged prompt promulgation of regulations assuring that the agency designated by Congress will have the authority and obligation to investigate complaints and take necessary action to assure compliance.

Mrs. FORSYTHE. Do the other members of the panel have anything to say?

Ms. ROUPE. Yes.

Mrs. FORSYTHE. We will hear your statements, and then we will ask questions.

Ms. CRUMPTON. I am Anne D. Crumpton, president of the National Rehabilitation Association. I am a rehabilitation counselor in Knoxville, Tenn., responsible for a caseload of 250 severely handicapped, and project director for a HEW R. & D. project which is studying the impact of service delivery when VR and 11 other facilities work together to meet the needs of the severely disabled consumer.

NRCA is the oldest and largest professional association of rehabilitation counselors in the United States. The National Rehabilitation Counseling Association has a membership of over 9,600 rehabilitation counseling professionals. As such, NRCA represents the largest single group of individual providers of rehabilitation counseling services in the Nation.

Mr. Chairman, the written testimony of the National Rehabilitation Counseling Association is essentially made up of two components.

First, we have taken a general overview of the Rehabilitation Act of 1973, and subsequent amendments, with respect to its implementation, affect on the practice of the rehabilitation counselor, and have included several constructive recommendations regarding areas for improvement and refinement.

Second, we have reviewed the Reorganization Act of the Florida Legislature which affects the provision of vocational rehabilitation services in Florida through the reorganization of the Florida Department of Health and Rehabilitative Services.

The National Rehabilitation Counseling Association is generally supportive of the provisions of the Rehabilitation Act of 1973, and feels the act will, given adequate resources and time for full implementation, provide improved vocational rehabilitation services for our Nations' handicapped citizens.

The National Rehabilitation Counseling Association became involved in the reorganization issue in Florida at the behest of our Florida affiliate, the Florida Rehabilitation Counseling Association (FRCA). Rehabilitation counselors in Florida and across the Nation are concerned about how this reorganization will affect the consumer and his right to have direct access to quality rehabilitation services provided by competent, professionally trained rehabilitation counseling personnel.

I am submitting for the record a letter from the president of the Florida Rehabilitation Counseling Association, and a copy of the resolution passed by FRCA-NRCA regarding this matter which will be included in our prepared statement. Permit me to read excerpts from these documents.

> It was and is our contention the reorganization of the Division of Vocational Rehabilitation in this State is illegal and in non-compliance with Federal guidelines (Vocational Rehabilitation Act of 1973).
>
> Further, it is our opinion that reorganization is going to have immediate and far reaching effects that will damage the vocational rehabilitation program in Florida to an extensive degree.

Rehabilitation counselors opposing this reorganization are doing so because they see it as a debilitating plan which will diminish professional rehabilitation counseling services to the handicapped.

Congress has made vocational rehabilitation funds available; a direct and highly accountable service delivery system is in operation. Now encouragement for greater consumer involvement through the IWRP indicates a clearer means by which all involved in the rehabilitation plan: the consumer, the counselor, the evaluator, and other professionals who contribute to the rehabilitation of the client, come to a mutual understanding of the goals for the rehabilitation of the handicapped citizens. We see all these measures as positive steps toward the rehabilitation of the handicapped.

The National Rehabilitation Counseling Association believes that in order to provide quality rehabilitation counseling services to handicapped citizens certain program requirements, which are spelled out in Public Law 93-112, and the Federal Regulations, are necessary and essential. The integrity of these requirements must be maintained.

Section II (3) of the Florida Reorganization Act gives the Department of Health and Rehabilitative Services (DHRS) authority for 1 year to reclassify all positions in whatever manner is deemed desirable with the only requirement being that total cost and number of personnel remain within authorized levels. This type of blanket authority can be an open invitation to abuse and political manipulation.

NRCA is concerned that the handicapped consumers will not have available trained expertise to assist him/her through the rehabilitation process to insure optimal success for placement.

It is also of great concern to professional rehabilitation personnel that section 4 of the Florida Reorganization Act exempts additional positions from the Florida career service, including those of the staff directors of the program office and the 11 district administrators.

Under this reorganization plan, it appears that the staff directors have little or no authority, but the powers of the district administrators are wide, thus making appointment to this position a potentially important political plum.

A politically appointed district administrator, without specific training or knowledge of categorical programs, such as vocational rehabilitation (VR), could potentially destroy discrete categorical programs established for vulnerable groups of Americans as mandated by the Congress.

The above statements are not presumptions. Attached to this testimony you will find a letter from Mr. Ladd E. Hamilton, special assistant for personnel, Florida Department of Health and Rehabilitative Services (FHRS), indicating the exemption from State career services of the positions of the 11 district administrators and other key administrative staff.

Another area of concern to rehabilitation counseling professions is found in section 7 of the Florida Rehabilitation Act which mandates the consolidation of the eligibility requirements of the various programs under DHRS into a single eligibility system to the maximum extent possible.

This is a prime example of how the Rehabilitation Act of 1973 may well be in conflict with the Florida Reorganization Act.

As you know, to be eligible for VR services a handicapped consumer must have: (1) a disability which presents a vocational handicap; and (2) there must be a reasonable expectation that the individual can be restored to work.

Services of counseling and placement are not based on economic need, as are most other human service programs.

Eligibility requirements for VR services--in addition to priorities for serving the severely disabled—have been spelled out in Federal law and regulation. If these VR eligibility requirements are changed for the sake of local administrative uniformity, there is a real danger that the funds specifically authorized and appropriated by Congress for VR services will not be fully available for the handicapped; or could be diverted to determine eligibility for other human resources programs as the priority of local statute might dictate. This would be a real injustice to handicapped consumers who are in need of rehabilitation services.

From July 1 through October 31, comparing fiscal years 1974 and 1975, rehabilitations in Florida declined by 9.6 percent. Successful rehabilitations for the period July 1 through January 31, 1976 have dropped by 623. Rehabilitation plans initiated for this period have declined by 1,808. Cases accepted for services have declined by 1,800.

The effectiveness of the Florida general VR agency can partially be determined by comparing new referrals, acceptances for inservice rehabilitations, and unsuccessful rehabilitation attempts after acceptance, with figures in prior years.

The figures for Florida have shown a declining state of health for approximately 2½ years. This situation was precipitated by the aborted attempt at reorganization of HRS at that time. With the last session of the Florida Legislature we have noted that an increase in the rate of decline in services is obvious.

Below are the figures for Florida since July showing comparison differences between July 1975 and January 1976. They are submitted for the record as follow:

REHABILITATIONS IN FLORIDA, JUNE 1975–JANUARY 1976

	New referrals	Acceptances	Rehabilitations	Unsuccessful service
1975:				
July	−1,147	−466	−237	−19
August	−2,173	−1,157	−298	+86
September	−2,626	−1,133	−117	+404
October	−2,121	−1,168	−167	+666
November	−2,873	−1,378	−435	+677
December	−3,386	−1,556	−485	+687
1976: January	−3,801	−1,800	−623	+650

Should these trends continue, it would appear that rehabilitation services to the handicapped citizens of Florida will decrease significantly.

The implications of a service system for the handicapped which does not provide for clear lines of administrative support, professional training and skills to focus on the needs of the handicapped consumer; and funding to provide necessary comprehensive service are broader than the problems found in the State of Florida.

A widespread public relations campaign has been waged by Florida HRS Secretary William J. Page, Jr., in which he not only attempts to justify the inclusion of vocational rehabilitation in an integrated human resource agency; but also seeks to export his philosophical concepts to other State governments.

I believe it is necessary to state the position of the National Rehabilitation Counseling Association regarding the several aspects of the Florida Reorganization Act.

One: We do not challenge the right of the State of Florida to effectuate a governmental reorganization of an executive department of government.

Two: We do challenge their legal right to enact and implement a component of a reorganization plan to affect a program that has its origin in Federal law, is funded with Federal funds, and which is administered by Federal regulation, under the auspices of a Federal agency, in partnership with the State.

Three: We believe that the Congress has the right and responsibility to oversee the programs it creates, and should exercise every opportunity to ensure that these programs are operating effectively and efficiently within Federal law and regulation.

Four: The Florida reorganization case is not a question of "petty bureaucratic turf protection." It is rather a serious question of: (*a*) The supremacy of Federal law [Public Law 93-112], (*b*) The right of Congress to create and fund categorical programs to serve specific vulnerable populations—such as the handicapped—and (*c*) The right of Congress to correct or modify legislative intent through the legislative process as opposed to administrative fiat, effectuated through bureaucratic administrative dictation.

The Federal interest in VR has been a part of congressional leadership for handicapped citizens across the United States since 1920. The NRCA asserts that, as long as there are architectural or attitudinal barriers which hinder the full participation of the handicapped citizen in the life of our country, Congress must continue its leadership.

Mr. Chairman, the National Rehabilitation Counseling Association strongly feels that the continued Federal commitment to vocational rehabilitation is both essential and integral to the continued growth and success of the unique human service program.

We also feel that the inclusion of the rehabilitation counselor, as the key to effective service delivery, is essential to any human service delivery system created to provide rehabilitation services to handicapped citizens.

Thank you.

[The prepared statement of the National Rehabilitation Counseling Association as presented by Mrs. Crumpton, follows:]

STATEMENT OF
THE NATIONAL REHABILITATION COUNSELING ASSOCIATION
BEFORE HEARINGS CONDUCTED BY
THE SUBCOMMITTEE ON THE HANDICAPPED OF THE
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

FEBRUARY 24, 1976

Mr. Chairman, I am Anne D. Crumpton, President of the National Rehabilitation Counseling Association. I am a rehabilitation counselor in Tennessee. NRCA is the oldest and largest professional association of rehabilitation counselors in the United States. The National Rehabilitation Counseling Association has a membership of over 9,600 rehabilitation counseling professionals. As such, NRCA represents the largest single group of individual providers of rehabilitation services in the nation.

Mr. Chairman, the written testimony of the National Rehabilitation Counseling Association is essentially made up of two components.

First, we have taken a general overview of the Rehabilitation Act of 1973, and subsequent amendments, with respect to its implementation, affect on the practice of the rehabilitation counselor, and have included several constructive recommendations regarding areas for improvement and refinement.

Secondarily, we have reviewed the Reorganization Act of the Florida Legislature which affects the provision of vocational rehabilitation services in Florida through the reorganization of the Florida Department of Health and Rehabilitative Services.

The National Rehabilitation Counseling Association is generally supportive of the provisions of the Rehabilitation Act of 1973, and feels the act will, given adequate time for full implementation, provide improved vocational rehabilitation services for our nations' handicapped citizens.

The National Rehabilitation Counseling Association welcomes the challenge to serve the severely disabled as mandated in Public Law 93-112. However, we would note with interest that this concept is not a totally new one.

Mr. Chairman, you may find it of interest that in the document Maryland's Philosophy of Vocational Rehabilitation, developed in 1947, the following statements are found:

> In the conduct of our vocational rehabilitation program for Maryland's handicapped citizens, we have established certain basic principles for our guidance and direction:

1. Service is available to all disabled persons who show definite evidence of being vocationally handicapped and who are potentially employable. This includes the severely disabled and the homebound.

2. Every service needed for adequate rehabilitation is rendered under the direction of the counselor, utilizing whatever personnel and private resources are available, and supplementing by public funds when and if necessary.

3. Successful rehabilitation can be achieved only if the disabled person has a sincere desire to overcome his handicap and if he is willing to put forth the required energy and effort. To this end, counselors take extreme care to avoid destroying individual initiative and the exercise of free enterprise on the part of every client being served.

4. Vocational rehabilitation workers feel a definite obligation to see that public funds which are provided for the program bring a fair return to the investor - the taxpayer. Likewise, the public must be continually reminded of its responsibility to see that an adequate service is maintained and that jobs are made available to rehabilitation clients.

It is interesting to note that this document developed 29 years ago contains elements of:

1. Emphasis on severe disability
2. Consumer involvement
3. Accountability
4. Fiscal responsibility
5. Professional competancy with the rehabilitation counselor as the key facilitator on the service delivery system.

Mr. Chairman, there are several programatic areas of concern regarding implementation of the Rehabilitation Act of 1973, and subsequent amendments, to which the National Rehabilitation Counseling Association wishes to address itself.

The primary issue of paramount importance in terms of crystallizing programmatic goals for vocational rehabilitation lies in the identification of those target disability groups whom VR Agencies will serve. In the Rehabilitation Act of 1973, the Congress issued a challenge to VR agencies by mandating first priority services to "those with the most severe handicaps", whoever they are, while at the same time declaring it unlawful to exclude lesser disabled individuals. However, this challenge can be turned into a burden when government declines to proportionately increase State and Federal budgets to accomodate their mandates to state VR agencies. Therefore, some of the attendant issues and problems that will quickly accrue to VR agencies are enumerated as follows:

1. Identification and Definition of Target Populations

Rather than attempting to differentiate between "degrees" of disability such as severely disabled vs. non-severely disabled, would it not be more pragmatic and operational to develop criteria for defining the word "substantial" and encourage state VR agencies to serve only those clients who meet the criteria for having a "substantial vocational handicap"? In this way, state VR agencies would (1) limit its services to those clients who meet defined minimum standards of severity regardless of type of disability, (2) avoid establishment of priority disabilities thereby encouraging equal consideration and service to all clients served and, (3) lessen the legal vulnerability that would ensue as a result of serving priority clients to the exclusion of lesser disabled clients. VR agencies and counselors should not be made "scrapegoats" to endure the wrath of class action law suits inherent in the creation of priority services induced by failure of government to appropriate adequate funding to handle more severe and expensive cases.

2. Criteria for Selection

As one suggestion, the criteria for measuring "substantial vocational handicap" might be an instrument that would contain items assigned point values designed to measure functional limitation, or severity. Accrual of a prescribed number of points would identify a client with any type of disability as having a "substantial vocational handicap" thus establishing eligibility. Such an instrument would standardize eligibility criteria nationally and could be used by VR panel physicians and psychiatrists rather than the customary narrative examination report. The complexity of establishing eligibility might be further lessened by utilizing eligibility teams such as a physician, rehabilitation counselor, physical therapist, etc. It is recognized that eligibility would be determined by considering the impairment in relation to the occupational anticipated role of the client.

3. Preservation of Feasibility

In our attempts to formulate an operational definition of severity for eligibility purposes, it is inherently necessary to bear in mind that the one common denominator underlying any concept in this area should hinge on the word "feasibility". While a given client might meet the criteria for having a substantial vocational handicap, he still may not be feasible in that there may be an absence of a reasonable expectation that rehabilitation services would render the individual fit to engage in a gainful occupation. It is significant to point out that while other health agencies are programmatically concerned with "recovery", state VR agencies, because of goal orientation, are programmatically concerned with "recovery to the extent that an individual can achieve employment and/or independent living." Failure to adhere to some degree of feasibility could hypothetically result in exhaustion of case service monies of unfeasible cases with a drastic curtailment in the number of individuals rehabilitated in proportion to tax dollars expended.

4. Numbers

Generally, state rehabilitation agencies, in an effort to be responsive to as many handicapped citizens as possible, have emphasized serving greater numbers of people each successive year. Yet, critics have pointed out that "rehabilitating large numbers of people implies that the rehabilitation process is easy." This criticism should be ignored and certainly not considered in the development of any criteria to measure severity of disability for eligibility purposes. Instead, such criteria should take into account and reflect the effort expended by the practitioner with his client in the rehabilitation process. Often times, more effort is expended in case closed unsuccessfully rehabilitated (status 28), than a case closed as rehabilitated (status 26).

5. Fragmentation

Historically, fragmentation has been a detriment to the advancement of the rehabilitation movement and to state VR agencies in thatstate VR agencies have a variety of organizational structures from state to state. Ironically, in spite of the meaningfulness of rehabilitation services in the lives of handicapped persons, state VR agencies are organizationally an adjunct to another state agency or department with few exceptions where VR departmental automomy exists. This has resulted in fragmentation and conflict of philosophies in addition to the added encumbrance of continually negotiating for approval of major decisions from extrinsic layers of administration. Therefore, it is imperative that efforts be exercised to encourage national unity and standardization in the implementation of eligibility criteria as well as any other issues vital to the overall rehabilitation movement. Inherent in any national unification effort will necessarily require a concerted attempt by academia to standardize the credentials of the Masters Degree in Rehabilitation Counseling such as has been done with the "MSW".

6. Need for Operational Application

If we are still struggling to define what a handicapped person is, given the fact that the federal/state VR program has been in existence since 1920, then apparently it is a difficult task made even more complex in view of accelerated social, economic, and legal trends in our society. In the meantime, the rehabilitation practitioner will remain frustrated and will not be equipped to render maximally effective services to handicapped individuals until we define something that is applicable at the service delivery level. In the final analysis, it will be at the service delivery level, where practitioner meets client, that the future of the rehabilitation movement will be determined.

Mr. Chairman, turning to another area of concern to the National Rehabilitation Counseling Association, that of continuing education and training, we are concerned that the Rehabilitation Services Administration has not announced specific plans and programs to upgrade the knowledge of rehabilitation counselors currently employed and daily working to meet the mandate to more adequately serve the severely handicapped.

Also, in the area of education and training, we feel that it is essential that RSA do a more adequate job of determining manpower needs in the field of rehabilitation counseling, and develop uniform standards for those training programs in rehabilitation counseling currently in existance.

Another area of concern to the National Rehabilitation Counseling Association is the fact that in view of the stipulation in sections 1361.34 and 1361.35 of the federal regulations specific qualifications are spelled out for health professionals providing diagnostic and evaluative services for State Rehabilitation Agencies, yet there are no minimum standards promulgated for professionals providing rehabilitation counseling services to handicapped individuals. We believe such minimum standards could easily be established in view of the criteria set for the Rehabilitation Counselor Certification Program now administered by the Commission on Rehabilitation Counselor Certification.

Regarding the Individualized Written Rehabilitation Program, the National Rehabilitation Counseling Association finds the philosophy behind this provision to be satisfactory. When properly implemented and utilized the IWRP allows for the clients to become more involved in the rehabilitation process, and clients appear to have a more definite concept that they are actually participating in their own rehabilitation.

NRCA is concerned that uniformity of the implementation of the IWRP may not have been achieved. Training in this regard has been inadequate and the forms adopted for the IWRP are often cumbersome and can in some instances appear to have the effect of confusing or "turning off" clients. The IWRP appears to be not substantially interferring with the counselor's ability to practice, however where excessive forms are required it does slow case work progress. Many times the out reach and data acquisition procedures required by the IWRP are not reflective of the reality of actual caseload size, and if the client cannot easily come to the rehabilitation agency office, it is often difficult for the counselor to find adequate time to make extensive visits to the client.

NOTE: A sample of the IWRP forms used in Maryland and the District of Columbia are attached to this testimony for review by the Committee.

Mr. Chairman, while the National Rehabilitation Counseling Association fully realizes that the challenge to serve the severely handicapped still remains a major one, we believe that given adequate time, adequate resources and adequate cooperation from both the governmental and private sectors of our nation, that challenge can be ultimately met.

The National Rehabilitation Counseling Association became involved in the reorganization issue in Florida at the behest of our Florida affiliate, the Florida Rehabilitation Counseling Association. Rehabilitation counselors in Florida and across the nation are concerned about how this reorganization will affect the consumer and his right to have direct access to quality rehabilitation services provided by competant, professionally trained rehabilitation counseling personnel.

Mr. Chairman, I am submitting for the record a letters from the President of the Florida Rehabilitation Counseling Association, and a copy of the resolution passed by FRCA-NRCA regarding this matter. Permit me to read excerpts from these documents.

Rehabilitation counselors opposing this reorganization are doing so because they see it as a debilitating plan that diminishes professional services to the handicapped. Congress has made funds available, a direct and highly accountable system is in operation, encouragement for greater consumer involvement through the IWRP indicates a clearer means by which all involved in the rehabilitation plan, the consumer, the counselor, the evaluator, the other professionals who contribute to the rehabilitation of the client come to a mutual understanding of the goals for the rehabilitation of the handicapped citizen. We see all these measures as positive steps toward the rehabilitation of the handicapped.

The National Rehabilitation Counseling Association believes that in order to provide quality rehabilitation counseling services to handicapped citizens certain program requirements, which are spelled ou in P.L. 93-112 and the federal regulations, are necessary and essential.

Section II (3) of the Florida Reorganization Act gives the Department of Health and Rehabilitative Services authority for one year to reclassify all positions in whatever manner is deemed desireable with the only requirement being that total cost and number of personnel remain within authorized levels. This type of blanket authority can be an open invitation to abuse and political manipulation.

It is also of great concern to professional rehabilitation personnel that Section 4 of the Florida Reorganization Act exempts additional positions from the Florida career service, including those of the staff directors of the Program Office and the 11 District Administrators. Under this reorganization plan, it appears that the staff directors have little or no authority, but the powers of the District Administrators are wide, thus making appointment to this position a potentially important political plum. A politically appointed District Administrator, without specific training or knowledge of categorical programs such as vocational rehabilitation could reek havoc or even destroy these discrete categorical programs established for vulnerable groups of Americans as mandated by the Congress.

The above statements are not presumptions. Attached to this testimony you will find a letter from Mr. Ladd E. Hamilton, Special Assistant for Personnel, Florida Department Health and Rehabilitative Services, indicating the exemption from state career service of the positions of the eleven District Administrators and other key administrative staff.

Another area of concern to rehabilitation counseling professionals is found in Section 7 of the Florida Reorganization Act which mandates the consolidation of the eligibility requirements of the various programs under DHRS into a single eligibility system to the maximum extent possible. This is a prime example of how the Rehabilitation Act of 1973 may well be violated by the Florida Reorganization Act. Eligibility requirements for VR services (in addition to priorities for serving the severely disabled) have been spelled out in federal law and regulation. If these VR eligibility requirements are changed for the sake of local administrative uniformity there is a real danger that the funds specifically authorized and appropriated by Congress for VR services will be going to ineligible clients as determined by local statute. This would be a real injustice to handicapped consumers who are in need of rehabilitation services.

From July 1 through October 31, comparing Fiscal Year 1974 and 1975, rehabilitation in Florida declined by 9.6%. Successful rehabilitations for the period July 1 through December 31, 1975 have dropped by 485. Rehabilitation plans initiated for this period have declined by 1,808. Cases accepted for services have declined by 1,556. The health of the General VR agency can partially be determined by comparing new referrals, acceptances for in-service rehabilitations, and unsuccessful rehabilitation attempts after acceptance with figures in prior years.

The figures for Florida have shown a declining state of health for approximately 2½ years. This situation was precipitated by the aborted attempt at reorganization of H.R.S. at that time. With the last session of the Florida legislature an increase in the rate of decline in services is obvious.

Below are the figures for Florida since July showing the comparing difference between July 1975 and January 1976.

	New Referrals	Acceptances	Rehabilitations	Unsuccessful Service
July	-1147	-466	-237	-19
August	-2173	-1157	-298	+86
September	-2626	-1133	-117	+404
October	-2121	-1168	-167	+666
November	-2873	-1378	-435	+677
December	-3386	-1556	-485	+687
January	-3801	-1800	-623	+650

Should these trends continue, it would appear that rehabilitation services to the handicapped citizens of Florida will decrease significantly.

A wide spread public relations campaign has been waged by Florida HRS Secretary William J. Page, Jr., in which he not only attempts to justify the inclusion of vocational rehabilitation in an umbrella human resource agency; but also seeks to export his philosophical concepts to other State governments. I believe it is necessary to state the position of the National Rehabilitation Counseling Association regarding the several aspects of the Florida Reorganization Act.

1. We do not challenge the right of the State of Florida to effectuate a governmental reorganization of an executive department of government.
2. We do challenge their legal right to enact and implement a component of a reorganization plan to affect a program that has its origin in federal law, is funded with federal funds, and which is administered by federal regulation, under the auspices of a federal agency.
3. We believe that the Congress has the right and responsibility to oversee the programs it creates, and should exercise every opportunity to ensure that these programs are operating effectively and efficiently within federal law and regulation.

4. The Florida Reorganization case is not a question of "petty bureaucratic turf protection". It is rather a serious question of:
    a. The supremacy of Federal law. (P.L. 93-112)
    b. The right of Congress to create and fund categorical programs to serve specific vulnerable populations (such as the handicapped)

    and:

    c. The right of Congress to correct or modify legislative intent through the legislative process as opposed to administrative fiat, effectuated through bureaucratic administrative dictation.

The Federal interest in VR has been a part of congressional leadership for handicapped citizens across the U.S. since 1920. The NRCA asserts that, as long as there are architectural or attitudinal barriers which hinder the full participation of the handicapped citizens in the life of our country, Congress must continue its leadership.

Mr. Chairman, the National Rehabilitation Counseling Association strongly feels that the continued Federal commitment to vocational rehabilitation is both essential and integral to the continued growth and success of the unique human service program. We also feel that the inclusion of the rehabilitation counselor, as the key to effective service delivery, is essential to any human service delivery system created to provide rehabilitation services to handicapped citizens.

Vocational Rehabilitation is a relatively small, and one of the oldest programs for the handicapped. For more than a half century it has helped millions of citizens disabled in industry, or otherwise, to return to gainful employment. Historically, in concept and practice, the vocational rehabilitation program has been maintained by the United State Congress as an integral categorical program not to be merged with human or social services organizations. Vocational Rehabilitation is clearly a "Federal" program in which Congress has authorized formula grants to be available to those states who wish to "buy in".

It is reasonably safe to say that the states themselves have not provided any great impetus or momentum for vocational rehabilitation over the half century of its existence. Virtually every major piece of legislation that has ever been enacted into law on behalf of the handicapped has been initiated by the Congress. Legislation for the handicapped has always meant something special to the Congress. Vocational Rehabilitation, like the Veterans Administration, as one of the two oldest programs for the handicapped has always enjoyed bipartisan support in the Congress. Clearly the Congress, through its laws and as evidenced by Oversight Hearings has been for many years, and continues to be, extremely sensitive to the organizational status, public visibility, and program integrity of vocational rehabilitation.

We feel that the Department's of Vocational Rehbbilitation do a good job in articulating their objectives through an annual State Plan and an annual Program and Financial Plan. Resource allocations are based on established objectives and program evaluation is geared directly to established Agency objectives and in accordance with published National standards.

There appears to be possible legal conflict with Federal legislation by merging the Vocetional Rehabilitation Agency with other Departments of State government, especially as mandated by the Florida Reorganization Act.

The Rehabilitation Act of 1973 carried forward the language regarding organizational requirements which has been in the basic legislation since 1965. The several specific requirements have consistently been seen as affirming and reaffirming a cardinal principal of VR legislation namely that the VR program is, and is to be maintained, as an integral categorical program, not to be merged with human or social service organizations. This principle was clearly articulated in the Congressional Oversight Hearings on November 30 and December 10, 1973.

The 1965 VR legislation added two options for the States as to the designation of a sole State agency for VR, i.e., an agency primarily concerned with VR and at least two other major units administering public education, health, welfare, or labor programs. The Act retained the State option of designating the State agency administering or supervising the administration of education or vocational education in the State. The 1965 Act also introduced the language concerning the organizational unit, which is carried also in the current legislation.

The statutory provisions as to the organizational unit in effect place constraints upon the alternatives available to the State in designating a sole State agency. The objective of these constraints continues to be to avoid submerging the VR program and, by implication, reducing its scope and/or effectiveness. In light of Congressional intent and the statutory provisions in section 101 (a) (1) and (2) of the Rehabilitation Act, the, a State may elect to place the VR program in and designate as the sole State agency to administer or supervise the VR program either:

1. a State agency primarily concerned with VR or with vocational and other rehabilitation of handicapped individuals;
2. the State agency administering or supervising the administration of education or vocational education in the state, or
3. a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State. (Regulations 45 CFR 401.6 (b).

The law provides an exception permitting a State to designate the State agency for the blind or other agency which provides assistance or services to the adult blind as the sole State agency to administer the part of the State plan under which vocational rehabilitation services are provided for the blind.

The National Rehabilitation Counseling Association is troubled about several events as they relate to vocational rehabilitation and the reorganization of the Florida Department of Health and Rehabilitative Services. One event that troubles us is the experience of reorganization on the Federal level that created the Social and Rehabilitation Services, and the trend that subsequently was established for many States to follow. The SRS model of reorganization has been so unsatisfactory that it has been largely dismantled by the Congress as they have taken the Rehabilitation Services Administration, out of the SRS structure. The vocational rehabilitation experience with the SRS "umbrella" model was indeed a bad experience.

Another event that troubles us is a recent study by the Council of State Governments. Late in 1974 the Council of State Governments released a study of human resource agencies of the "umbrella type". While the study is preliminary, it can be concluded that more time is needed before anymore states take this step. The results have been far short of expectations and the problems that arose are more complex than were anticipated.

A third troublesome event is a study released in June, 1975 by the Management Services Associates, a highly reputable Texas firm. They examined in some depth and functioning of four state Human Resource agencies that have been set up since 1970. In each instance serious problems have not been resolved and these problems have led to less effective client service. In each of the four instances the administrative cost is high per unit of output than it was before the agencies were consolidated. The creation of the Human Resource umbrella agency did not lend to efficiency, economy and improved services, yet these were the key issues upon which the concept was "sold" in each of these four states. Some of the more critical problems uncovered are as follows:

- Communication at both the central office and field levels had not improved. Due to lack of careful study and planning the first two years resulted in such a deadly confusion that qualified staff, to a large degree, took other positions - many out of state. These key personnel have not been replaced by highly skilled persons. Employee morale was low with competent personnel that remain. This situation is now occuring in Florida.
- Lines of authority and responsibility tend to be more confused than they were before the creation of the super-agency. The size of the agency precludes getting problems from the field to those who make policy. In one of these super-agencies there are 15 levels of bureaucracy between the field worker

in contact with the client and the Commissioner who sets the operational policy.

- There is a constant demand to handle more clients, more superficially and to produce "paper results." Emphasis is not on quality of rehabilitation and returning clients to employment for long periods of time, but in getting cases closed as quickly as possible. Intensity of case service is constantly downgraded for number of "case closures."

- Budgets are developed without input from those who must bear responsibility for administration. Even when they are asked to participate in the process their needs, wishes and considerations usually have no impact. The budget request is usually predetermined and only minor details can be worked out by those who really understand the program.

- Smaller programs, such as vocational rehabilitation are considered "problem functions." No one really takes the time to comprehend the differences in the program. The constant criticism is, "Why can't it operate like the other programs?" In terms of size, budget, numbers of employees and numbers of clientele served, such a smaller department is not considered important. Only when outside groups provide political leverage are those who direct smaller functional areas really listened to.

- In many instances personnel standards are downgraded, training programs are diluted or eliminated, and the resultant inadequacy of personnel cannot provide those complex, vital services needed to complete the rehabilitation cycle.

- Relationship with federal agencies who provide a large percentage of operating funds are oftentimes ruptured or confused. The person authorized within a state to speak for a functional area of program oftentimes does not conform with logical patterns of operation and the result is misunderstanding, inefficiency and friction.

The study cites many more areas of serious problem, but these should suffice to demonstrate that where combinations of agencies took place to create super-agencies, the vital planning, design and staff training was usually not done. The stated reasons for combining have not been realized since economy and efficiency have not been achieved and client services have not been improved. The study concluded that the sole reason for agency consolidation to super-agency status was to do "something" to reduce criticism. Therefore, it was a political reason. The premises on which it was based have never really been carefully thought out as to the impact of service to specific types of clients. In fact, they show a marked lack of understanding of how "people problems" can be resolved successfully by government.

Fla. Response 7:6 -

RECEIVED
NOV 7 1975

October 30, 1975

Dr. David Mathews, Secretary
Department of Health, Education and Welfare
330 Independence Avenue, S.W.
Washington, D. C. 20201

Dear Secretary Mathews:

On September 16, 1975 a hearing was held in the Tallahassee Circuit Court concerning a "Petition for Declarative Judgment and Injunctive Relief". This petition was brought by the Florida Rehabilitation Counseling Association against the Florida Department of Health and Rehabilitative Services for the purpose of staying the reorganization of the Division of Vocational Rehabilitation until federal approval had been obtained. The temporary injunctive relief was denied and the reorganization of the Division of Vocational Rehabilitation in the State of Florida is proceeding.

It was and is our contention the reorganization of the Division of Vocational Rehabilitation in this state is illegal and in non-compliance with federal guidelines (Vocational Rehabilitation Act of 1973). Further, it is our opinion that reorganization is going to have immediate and far reaching effects that will damage the vocational rehabilitation program in Florida to an extensive degree.

We firmly believe the Division of Vocational Rehabilitation should remain intact as provided in the Rehabilitation Act of 1973 and in doing so will:

a. maintain the integrity and identity of vocational rehabilitation
b. insure that funds earmarked for vocational rehabilitation remain in the vocational rehabilitation program
c. provide an undiluted vocational rehabilitation program by preventing the co-mingling of services of other agencies
d. insure the employment and utilization of suitably trained counselor personnel dedicated to the task of rehabilitation of the severely disabled

e. enable the vocational rehabilitation program to continue to increase in effectiveness (by virtue of being an entity devoted to the complex and comprehensive task of vocational rehabilitation
f. maintain stability and morale throughout the vocational rehabilitation organization.

As a counselor in vocational rehabilitation and as president of the Florida Rehabilitation Counseling Association I earnestly request the waiver sought by the State of Florida which will permit the reorganization to take place be denied. This denial will enable the vocational rehabilitation program to function as intended under the Rehabilitation Act of 1973.

Sincerely,

A. W. Barrett, Jr.
President

A.W. Barrett, Jr.

Same letter to: Senator Lawton Childs
U. S. Senate
Washington, D. C. 20510

Mr. C. W. (Bill) Young
U. S. House of Representatives
Washington, D. C. 20515

RESOLUTION

Whereas: The handicapped citizens of Florida should be guaranteed the highest possible quality and quantity of rehabilitation services;

Whereas: The Vocational Rehabilitation Act of 1973 and subsequent Amendments of 1974 resulting from oversight hearings designate Vocational Rehabilitation as a discrete and categorical program devoted solely to providing Vocational Rehabilitation services;

Whereas: The Legislature of the State of Florida has passed Committee Substitute for Senate Bill 165 reorganizing the Department of Health and Rehabilitation which places the Vocational Rehabilitation program in a posture of non-compliance with Public Law 93-112 "The Vocational Rehabilitation Act";

Whereas: The Division of Vocational Rehabilitation will be placed into a period of chaos until such time as the posture of non-compliance is removed by negotiation between the Secretary of the Department and the United States Department of Health, Education, and Welfare as provided in Section 3, Paragraph 5 (a disclaimer clause);

Whereas: Historically, this type of chaos has resulted in a marked decline of services to citizens.

The Florida Rehabilitation Counseling Association hereby resolves to take immediate steps in an attempt to obtain a stay of action in the implementation of CS for SB 165, as it affects the Florida Division of Vocational Rehabilitation until such time as all negotiations related to the question of compliance of the State of Florida with Public Law 93-112 as amended have been completed.

FLA. Reorgn. [illegible]

hrs DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES . . . . STATE OF FLORIDA
Reubin O'D Askew, Governor
OFFICE OF THE SECRETARY
1323 WINEWOOD BOULEVARD • TALLAHASSEE, FLORIDA 32301 • PHONE (904) 488 7721

July 31, 1975

National Rehabilitation Counseling Assoc.
1522 K Street, NW
Washington, D.C. 20005

Dear Sirs:

We seek your assistance in helping us to recruit individuals for new positions which were established as a result of a recent reorganization.

The specific vacancies are Deputy Secretary, Assistant Secretary for Program Planning and Development, Assistant Secretary for District Operations, Assistant Secretary for Administrative Services, Deputy Assistant Secretary for Program Planning, Deputy Assistant Secretary for State Health Planning, Program Staff Director-Children's Medical Services, Program Staff Director-Vocational Rehabilitation and eleven (11) District Administrators.

Interested individuals must have broad, progressively responsible managerial, administrative or technical experience. Such experience must demonstrate the ability to manage a complex program involving local and state human service delivery systems as well as the ability to interact with all levels of governmental and private sectors of human service agencies. Appropriate consideration will be given to advanced education.

The positions, with the exception of the Deputy Assistant Secretary for State Health Planning, will serve at the pleasure of the Secretary and will be exempt from the State Career Service. The Department is an Equal Opportunity Employer. The salary is open and competitive with liberal benefits also provided.

Interested individuals may send a resume, by August 20, 1975, to the Office of the Secretary, Attention: Special Assistant for Personnel, Department of Health and Rehabilitative Services, 1323 Winewood Boulevard Tallahassee, Florida 32301.

Sincerely,

Ladd E. Hamilton

Ladd E. Hamilton
Special Assistant for Personnel

LEH:vh

Mr. Humphreys. Excuse me, for the other members of the panel we are beginning to run into a time problem. If we could please curtail your comments to the shortest possible time, it would be greatly appreciated.

Mr. O'Rourke. My name is Terry O'Rourke. I am here to testify on behalf of the NRA Task Force on Deafness, a task force established in 1971 to advise the National Rehabilitation Association regarding the rehabilitation of deaf individuals.

The fact that the NRA saw fit to establish this task force indicates that the NRA recognizes the special needs of deaf persons within the rehabilitation process. This has been a step forward in the direction of providing for the often overlooked special needs that must be met if the rehabilitation process is to succeed for one who lacks the ability to hear and/or speak.

Previous testimony before this subcommittee has indicated that the number of deaf persons rehabilitated annually totals about 7,500; recent demographic data (1974) indicates that there are 1.8 million deaf (unable to hear and understand speech) persons in the United States. Given these facts, one may assume that most deaf persons are not in need of rehabilitation.

However, statistics are like a bikini—what they hide is more important than what they reveal. The truth of the matter is that in spite of legislation designed to provide services to this special population, such services rarely exist. This is true for several reasons, the most important of which are:

One: Lack of trained personnel to serve the deaf population;

Two: Lack of involvement of deaf persons—consumer or professional—in the planning of rehabilitation programs; and

Three: Lack of commitment on the part of State agencies to services for the deaf because of lack of knowledge and understanding of the problems.

No. 3 relates to Nos. 1 and 2 and round and round we go.

On a State-by-State basis it might be said that the adequacy of services for the deaf is in direct proportion to the awareness of administrators as to the special needs of individuals with differing handicapping conditions. Those agencies that do not lump all the disabled together tend to provide more appropriate services.

After all, vocational rehabilitation programs have succeeded where other social service programs have failed as they have largely been designed to meet individual human needs. Neither dole nor simplistic solutions will solve complex human problems.

I would like to point out to the subcommittee the various pitfalls encountered by a deaf person who attempts to go through the vocational rehabilitation process to show that every step along the way the deaf individual is likely to encounter barriers of communication and ignorance that prevent him from receiving the services to which he is entitled under law.

The first step in the vocational rehabilitation process deals with casefinding and referral. It is at this initial step that services to deaf clients in various agencies often succeed or fail. Deaf persons are members of a linguistic community that separates them from the general population. When attempting to obtain needed services, the initial contact with an agency might be through a secretary or receptionist who, not understanding the deaf person's difficulty in communicating, may cursorily dismiss him or her with a statement such as, "The counselor is not in. You will have to come back next week, and you should make an appointment first."

Not fully comprehending, the deaf person may only understand that, apparently, "I can't get help here."

But even when the deaf individual gets beyond the initial step and into the process, such steps as the intake procedures, diagnosis, evaluation, physical restoration, adjustment training, vocational training, higher education, maintenance, transportation, counseling, placement, and follow up are all fraught with special problems. The number of deaf persons misdiagnosed, misevaluated, put into training programs which were of little value to them—all because of the communications barrier—are legion.

Fortunately this happens more often in programs other than vocational rehabilitation. Vocational rehabilitation is one of the few programs that does, however inadequate in many instances, provide services. To take away this program would leave deaf persons with virtually nothing, and perhaps put other handicapped individuals into a situation similar to that faced by deaf persons now.

One solution to these problems is the model State plan (MSP). The model for a State plan of vocational rehabilitation services to deaf clients—MSP—is a document that addresses itself to the problems a deaf client faces in the rehabilitation process.

The MSP has been endorsed by the Rehabilitation Services Administration, the National Association of the Deaf, the National Rehabilitation Association, the Professional Rehabilitation Workers with the Adult Deaf, and by other groups and individuals in the rehabilitation and welfare of deaf persons.

It is the first document ever written to provide a frame of reference relating to deaf clients' problems to the VR program's resources. The MSP proposes basic minimum requirements for an adequate program of services for deaf clients.

The MSP is written with the State-Federal program of vocational rehabilitation in mind and speaks to the changes required to make that program more available to deaf clients. It is important here to note that the State-Federal VR program is viewed as a vital, worthwhile program in its present form.

The MSP indicates the need for an identifiable program for deafness within a State agency and the appointment of a qualified, capable indiviual as a State coordinator of services to the deaf. Trained rehabilitation counselors for the deaf (RCD) are also mandatory for actual service delivery. Without an identifiable program of vocational rehabilitation within a State, deaf people would be forced to shop around for needed services and would be sorely tempted to give up after a few unsuccessful attempts. Agencies that have no one to communicate with deaf individuals are effectively denying their services to taxpayers whose tax dollars are being used to support all public services. This is even a case with some VR programs, but much less so because VR has been identified as having responsibility for the rehabilitation of deaf individuals.

The important point here is that even with that program identification, those who cannot hear do not receive adequate services. If the

State programs of vocational rehabilitation were to lose their identity or be split and merged with other programs, deaf people would become subject to more communication problems than they face now. Deaf persons would not only be dealing with persons who do not communicate with deaf individuals, but they would also be dealing with persons who may not ever be identified fully with vocational rehabilitation. Too much case shuffling and referral back and forth to different parts and personnel of the program creates undue hardship on the client and magnifies rather than minimizes the communication barrier.

The point of all this is that deaf persons, through effective Federal legislation and the assistance of groups such as the National Rehabilitation Association, the Council of State Administrators of Vocational Rehabilitation, the Professional Rehabilitation Workers with Adult Deaf, et cetera, are finally beginning to more fully utilize and be aided by vocational rehabilitation programs. Governmental attempts on the State level to create super social service agencies not only sets back the delivery of services to deaf persons 30 years, but is an injustice to all the disabled.

Thank you.

Ms. ROUPE. Mr. Hutchinson was accompanying us to answer questions, and being a local constituent of the State of Minnesota, and I think he would like to read something into the record with regard to the Senator on your subcommittee.

Mr. HUTCHINSON. For the record I would like as immediate past president of the Minnesota Rehabilitation Association to extend our appreciation for the time Senator Mondale and several of his staff took several weeks ago to visit the vocational rehabilitation facilities in the State of Minnesota.

The Senator's interest in what we considered to be the most effective human service program is greatly appreciated.

Thank you.

Ms. ROUPE. That completes our formal testimony.

Do you have any questions?

Mrs. FORSYTHE. I have none at the moment.

In the interest of time we will submit any additional questions in writing, unless Mr. Andrews has something.

Mr. ANDREWS. I have one question which is to ask the panel if the committee should require more assistance of these issues, if you would be willing to return to testify before the committee at some future time?

Ms. ROUPE. I think I speak for the entire panel here in saying we would be more than happy to participate in any kind of hearing or meeting or submit anything we can that would help you with your work. We would be most happy to cooperate in every respect.

Mr. ANDREWS. Thank you very much.

Ms. ROUPE. Madam Chairman, we appreciate very much the opportunity of having been here this morning.

Mrs. FORSYTHE. We thank you very much for the very excellent testimony.

Our next panel is a panel from the U.S. General Accounting Office, Mr. Gregory J. Ahart, Director, Manpower and Welfare Division, U.S. General Accounting Office.

On behalf of Senator Randolph, I want to extend his regrets that he could not remain to hear your presentation; he was called away on an urgent matter.

Please proceed and introduce your colleagues.

STATEMENT OF GREGORY J. AHART, DIRECTOR, MANPOWER AND WELFARE DIVISION, U.S. GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY DONALD F. LAUVE, ASSISTANT DIRECTOR IN CHARGE, MWD; EDWARD A. NIEMI, SUPERVISORY AUDITOR, MWD; LINDSAY HARWOOD, SUPERVISORY AUDITOR, NORFOLK, VA., REGIONAL OFFICE

Mr. AHART. On my left is Mr. Ronald F. Lauve, Assistant Director in Charge, Metropolitan Washington District, on my immediate right is Edward A. Niemi, Supervisory Auditor, also from the Manpower and Welfare Division; and the gentleman on my far right is Lindsay Harwood, Supervisory Auditor of the Norfolk Regional Office.

Mrs. Forsythe, in the interest of time, I can either file the statement for the record and respond to any questions or try to briefly summarize it or read the statement in full at your option.

Mrs. FORSYTHE. You may handle the presentation however you wish. We are very interested in your testimony.

Mr. AHART. All right.

We are pleased to be here today to discuss the vocational rehabilitation program administered by the Rehabilitation Services Administration (RSA) of the Department of Health, Education, and Welfare.

On April 3, 1973, we issued a report to the Congress on the effectiveness of vocational rehabilitation in helping the handicapped.

We recommended that HEW obtain better estimates of persons needing services; require States to institute a continuous followup system for persons successfully rehabilitated; refine its reporting system to more meaningfully describe program results; and impress upon the States the need to consider funding sources other than the vocational rehabilitation program for clients, particularly those who required only medical services or college tuition. HEW generally agreed to take actions to implement our recommendations.

On September 26, 1973, the Rehabilitation Act of 1973 was approved. The act mandated that the program emphasize provision of services to the most severely handicapped and that States conduct continuing statewide studies of the needs of the handicapped and of how these needs could be most effectively met.

Also the act requires States to periodically estimate the number of persons eligible for the program, provide that maximum use be made of public or other training facilities or appropriate resources, provide for means to track clients after they had been successfully rehabilitated, and develop individualized written rehabilitation programs for each client. Further, the Secretary of HEW is to develop and publish standards for evaluating the program.

We have prepared a chart to highlight some of the most significant events that have occurred since the act was passed. The chart is an attachment to my statement. As shown, regulations governing program operations were not issued until December 1974, about 15 months after the act was approved.

Interim regulations for program evaluation were issued in July 1974, but were not issued in final form until December 1975—27 months after the act was passed. Also, HEW awarded several contracts to assist in carrying out the mandates of the act with completion dates ranging from February to September 1976.

Mr. Chairman, I would now like to discuss in more detail the status of actions taken by HEW to implement our recommendations and selected provisions of the 1973 act.

Throughout the remainder of my statement, I will be discussing information that we obtained through inquiries at RSA headquarters, a limited survey in North Carolina, and a review of training services provided to vocational rehabilitation clients which we now have underway in five States.

As I mentioned earlier, the act required that the program emphasize services to the most severely handicapped. It defined a severe handicap as a disability which requires multiple services over an extended period and specified certain types of disabilities as severe handicaps. Also, the act allows the Secretary to classify other disabilities as severe handicaps.

In December 1974, RSA issued regulations which expanded the list of disabilities and the definition of severe handicap by including impairments which limit the individual's functional capabilities, such as inability to use public transportation and perform sustained work activity for 6 hours or more.

In July 1974, RSA asked the States to examine active cases and classify as severely handicapped all clients having one or more of the specified disabilities, all social security disability insurance beneficiaries, all blind supplemental security income recipients, and other clients having comparable disabilities which limit functional capabilities.

Because of perceived problems in applying the definition of severe handicap and because studies had shown that opinions regarding the adequacy of the definition differed, in August 1975, HEW awarded a contract to Rehab, Inc., to analyze the definition and formulate refinements by March 1976. The contractor is to identify constraints and problems in applying the definition, and to recommend refinements for use until such time as new criteria are presented.

The statement of work under the contract states that part of the reason for variances in defining the severely handicapped may be that State agencies are constructing their own operating procedures from different documents, such as the law, the regulations, and/or RSA guidelines.

In October 1975, a national advisory committee reported on a number of instances where those working in the field found the criteria to be unclear, inappropriate, or insufficient.

Under the act, the States have been required to emphasize services to the most severely handicapped and the order of selecting applicants for services must be consistent with outcome and service goals prescribed by the Secretary. However, RSA did not provide guidance on order of selection, priority, and outcome and service goals to the States until June 1975.

Officials in North Carolina and Ohio told us that they have always served the severely handicapped and had not implemented a formal outreach program to recruit the most severely handicapped.

North Carolina established the severely handicapped as its top priority but had not developed procedures for serving them first because RSA guidelines for identifying them were still being developed.

North Carolina officials told us that recently a moratorium had been placed on the number of counselors stationed at schools to conserve resources for the severely handicapped and that the State's mental health deinstitutionalization program has increased the number of severe mentally handicapped clients being served under the program.

We recognize that determining which persons are the most severely handicapped can be difficult, but believe it unrealistic to expect much progress until HEW resolves the question of definition.

In our 1973 report we pointed out that, historically, the estimate of handicapped persons, which we referred to as the universe, had far exceeded the number of persons rehabilitated. At that time, RSA did not have a reliable estimate of the universe or of the number of persons becoming eligible for services each year, which we refer to as the annual increment.

We recommended that to plan the proper rate of growth for the program and to assess its impact, HEW, in addition to studying the universe, should obtain a better estimate of the annual increment. RSA's latest estimate for the national increment is 600,000. This is based on 1968–1970 data, but RSA officials informed us that there are no plans to develop more current estimates.

The 1973 act requires States to conduct continuing statewide studies of the needs of handicapped individuals and how these needs can be most effectively met. Also, States are required to periodically estimate the number of persons eligible for the program. RSA advised that guidance to the States for these studies was in the draft stage.

Based on a formula using 1970 census data, RSA estimated that the 1973 target population was about 6 million, of which 2.3 million were noninstitutionalized severely handicapped. To periodically estimate the number of persons eligible for the program, in August 1975, RSA encouraged the States to use the formula and 1970 census data. If another means is used, the State is to explain its methodology. To date, RSA has not compiled national data based on these estimates.

In June 1974, the Social and Rehabilitation Service entered into a $1 million contract with the Urban Institute for the comprehensive needs study mandated by the act. The Institute's June 1975 report estimated that just over 10 million persons constituted the most severely handicapped population of which 1.8 million were institutionalized.

In North Carolina we inquired about the basis used to estimate its target population. For fiscal years 1973 through 1975, the State used national data developed by the Bureau of the Census, National Center for Health Statistics, and the Social Security Administration; a 1969 study of vocational handicaps in three counties; and a 1971 report on the need for State rehabilitation centers.

The estimates ranged from 181,000 to 411,000. Using the formula suggested by RSA, North Carolina's estimated universe for 1974 was 164,000. Using the Urban Institute's data, the estimates of the most severely handicapped would have been 134,000 for 1975.

For fiscal year 1975, RSA estimated that nationwide 338,000 persons would be rehabilitated, including 115,000 severely handicapped. For 1981, RSA has a goal of 500,000 rehabilitations, including about 250,000 severely handicapped.

RSA officials believe that this will comply with the 1973 act's requirement of giving priority to the needs of the most severely handicapped.

It is apparent that even when using the lowest estimate of the severely handicapped target population, the entire rehabilitation caseload could be composed of these persons. Also we believe that more precise estimates of the universe and annual increment are needed to properly plan for the size and direction of the program and the resources needed.

In our 1973 report, we pointed out that some clients received medical services only or financial support for college tuition. We recommended that in the acceptance process, for persons needing medical services only or college training, a determination be made whether they could pay for the services themselves or obtain them from other sources. HEW agreed and stated that additional guidelines would be sent to the States.

The 1973 act states that the program should not pay for college costs unless maximum efforts have been made to secure assistance from other sources and that medical services can be provided only after full consideration has been given to similar benefits under other Federal programs, unless such consideration would delay services.

Regarding college training, we noted that in fiscal year 1975, over $49 million in rehabilitation funds were spend for college training. Also, in fiscal year 1975, about 11 percent of all clients receiving rehabilitation services were receiving college training. This is the same percent as reported in fiscal year 1973.

As part of our review of the training services provided to the handicapped, we visited colleges and business schools in five States to determine whether aid from Federal education programs was being utilized before rehabilitation funds were authorized.

At four colleges we visited in Kentucky, 156 of the 774 rehabilitation clients attending were receiving other financial aid, such as student financial aid from the Office of Education and the Veterans' Administration. We received the files of 121 of these 156 clients, and concluded that up to $41,000, or 45 percent, of the total amount of rehabilitation funds authorized could have been saved had the counselors considered the other aid being received by the clients.

A university in the District of Columbia that we contacted had 60 rehabilitation clients enrolled who were receiving aid of about $53,400 from the rehabilitation program for school year 1975–76.

Assistance ranged from $17 to $3,254 per client. These clients were from 13 States and the District of Columbia.

We did not analyze the cases in detail; however we noted that 11 clients were receiving other financial aid of about $12,700 from four different sources and that there may be others who would be eligible for other aid.

Although the 1973 act does not require that States do so, using other sources of educational benefits for business college and vocational school training provided to clients, could also result in savings to the program.

Again in Kentucky, we reviewed files of 20 clients attending five business colleges or vocational schools. It appeared that up to $15,300, or 48 percent, of the $31,600 authorized in these cases could have been saved had the counselors considered the other aid being received by the clients.

Although our field work is not complete, there are indications that other sources of aid are not properly utilized in New York, New Jersey, and Ohio.

We believe that this situation has continued because precise Federal guidelines to implement the policy regarding college training were not issued until 2 years after the act was approved, and States have not applied uniform policies in this matter.

Regarding medical services, title XIX of the Social Security Act requires that a State's plan for Medicaid provide for entering into cooperative arrangements with the State rehabilitation agency so that maximum use can be made of vocational rehabilitation resources.

As I mentioned earlier, the Rehabilitation Act of 1973 states that medical services can be provided only after full consideration has been given to similar benefits available under other Federal programs, unless such consideration would delay services.

In North Carolina, the State rehabilitation agency entered into an agreement with the State's Division of Social Services which provided for use of Medicaid funds as first dollar resources for eligible rehabilitation clients. Also, rehabilitation counselor manuals state that Medicaid funds would be used whenever possible.

Although the agreement seems consistent with the provisions of the Rehabilitation Act, it seems contrary to title XIX. The Congress in its deliberations, might wish to clarify which program should pay the costs of medical services for Medicaid eligible vocational rehabilitation clients when such alternative program consideration would not delay services to the client.

We reviewed 10 cases closed as successfully rehabilitated in North Carolina, and found that in order to comply with the agreement between the social services agency and the vocational rehabilitation agency, three should have been referred to Medicaid.

In June 1975, HEW awarded a contract for $99,000 to the Urban Institute to identify and evaluate the administrative procedures and policies used by State agencies to facilitate the utilization of similar benefits. The estimated completion date is April 1976.

In 1973, we reported that many clients received benefits that were limited and not long lasting and that often additional services were needed. We recommended that HEW require States to institute a continuous followup system to identify former clients' unmet needs and obtain better information on the effectiveness of the program.

In June 1974, HEW awarded a $423,000 contract to JWK International Inc. to determine the extent to which clients continue to realize benefits as a result of rehabilitation services. Preliminary results showed that about 45 percent of the sample was unlocatable and of the remainder, over half did not return the initial questionnaire to the contractor.

At present, RSA is reevaluating the validity of the study elements. The completion date of this contract has been extended 6 months to June 30, 1976.

In response to our 1973 recommendation, HEW stated that a system for exchanging information between RSA and SSA was being established which would provide continuing information on program effectiveness and help identify unmet needs.

In September 1975, RSA announced the first output from this system, which was 1972 earning experience of clients whose cases were closed during fiscal year 1971. However, this system does not provide earnings data on individual clients and does not provide a means for identifying their unmet needs.

In North Carolina, we learned that since July 1975, the State has been using a followup questionnaire which is filled out by counselor supervisors through contacts with former clients.

Each month, 55 clients whose cases have been closed for 12 months are contacted. Again this might reveal long-range effectiveness of the program but might not identify unmet needs.

Regarding followup services, general vocational rehabilitation agencies reported to RSA that 2,022 clients received followup services costing about $630,000 in fiscal year 1970. Three States accounted for 75 percent of the clients and 90 percent of the costs.

At the other extreme, 14 States reported less than 10 clients received followup services, and 28 reported that no clients received followup services.

For fiscal year 1975, RSA reported that 3,815 clients received followup services costing about $1.3 million. Five States accounted for 41 percent of the clients and 79 percent of the costs. Again, at the other extreme, 6 States reported less than 10 clients received followup services, and 18 reported that no clients received such services.

I would like to move now to the individualized written rehabilitation program mandated by the 1973 act.

This program is to continue, extend, and formalize the traditional case planning process of setting goals and objectives for the client. Each individualized program is to be developed jointly by the counselor and the client and is to include long-range goals and intermediate objectives, services to be provided, and a means for determining whether objectives and goals are being met.

In January 1974, RSA issued interim regulations regarding the development of individualized programs and, in December 1974, issued revised regulations.

On April 10, 1975, RSA urged the States to move immediately to complete implementation of individualized programs. RSA pointed out that the program had been required since December 1974, and should have been instituted for all individuals determined to be eligible for services and those accepted for extended evaluation after that date.

RSA advised the States that their schedules for implementing the program should be designed to cover the entire active caseload no later than December 30, 1975.

On April 21, 1975, RSA issued detailed program guidance on developing individualized programs.

We noted in North Carolina that because of having to train counselors and refine the format used by the State, the individualized program was not made effective until January 1, 1976, for persons determined eligible after this date or for clients whose previous plans are amended.

To develop guidelines for the HEW Audit Agency to assess implementation of individualized programs, HEW awarded a contract to Berkeley Planning Associates in July 1975. The contractor was to determine the knowledge of rehabilitation agency administrators and counselors and their responsiveness to the legislative requirement for individualized programs and to determine whether changes are occurring as a result of the requirement.

The contract is to include work in five States and is to cost $91,000. The scheduled completion date is March 1976.

At this point, I would like to discuss a need to refine program statistics.

In our 1973 report, we pointed out that program statistics could be refined to provide a better basis for planning and evaluating accomplishments. We recommended that annual data be refined to show the combination of services provided to rehabilitated clients.

The 1973 act requires HEW to annually report statistical data on program activities carried out under the act. HEW awarded a $103,000 contract to Swift & Associates in June 1974 to develop a system for reporting comparisons of personal and program-related characteristics of severely and nonseverely handicapped rehabilitated clients. The contract is to be completed in June 1976.

At present, for planning and evaluation, RSA relies on a system which provides statistics on all cases closed as successfully rehabilitated and publishes annual data to be used as the basis for evaluating the program.

Some data is available on the number of severely and nonseverely handicapped persons being served—that is, the open cases—but the system does not yield detailed information on personal and program related characteristics.

RSA began work to determine the feasibility of compiling detailed information on open cases in the summer of 1975. At present, RSA has gathered some information but it has not been analyzed. RSA officials told us that this endeavor has a low priority.

Regarding our recommendation in 1973 that program data be refined to show the combination of services provided to rehabilitated clients, we believe that such a refinement would provide the Congress and the public with a better perspective of accomplishments.

However, at present, RSA does not publish such information and it is not being developed under the present contract. Because the act directs the program toward the severely handicapped who usually require multiple services, in our opinion, there is a strong need for developing information on the combination of services provided to clients.

The 1973 act also required HEW to promulgate standards for evaluating the program by June 30, 1974. In July 1974, interim standards were issued. However, recognizing the tight deadline under which the initial standards were developed, and that they were inadequate and incomplete in some respects, HEW awarded a $36,000 contract to JWK International Inc., in April 1975, to develop performance levels and evaluation measures for the standards.

JWK was also expected to develop guidance on the use of the measures. Work under the contract was to be completed in two months so that RSA could issue revised standards by June 30, 1975. However, due to extensions and modifications, the contract was extended to March 1976 and the cost increased to $95,000.

In December 1975, RSA issued revised evaluation standards which considered the work performed to that date by the contractor.

In the process of revising the standards, and while JWK International Inc. was doing its work, RSA noted a need for more modification than could be accomplished in the available time. Consequently, a $216,000 contract was awarded to the Urban Institute in June 1975 to develop comprehensive general standards and performance levels for evaluating the program and guidelines for implementing the standards. This contract is to be completed in June 1976. RSA officials anticipate that revised evaluation standards will be issued following contract completion.

[The following information was supplied for the record:]

ACTIONS TAKEN AFTER REHABILITATION ACT OF 1973

DATE	ACTIONS
1974	
January	Interim regulations on program operations issued.
May	Proposed regulations on program operations issued for comments.
June	Contract awarded to JWK International Corporation to study the extent of followup services. Estimated completion June 1976 at a cost of $423,000.
July	Interim regulations on program evaluation standards issued.
December	Revised regulations on program operations issued.
1975	
April	Contract awarded to JWK International Corporation to establish performance levels for evaluation standards. Estimated completion March 1976 at a cost of $95,000.
June	Contract awarded to the Urban Institute on the use of similar benefits. Estimated completion April 1976 at a cost of $99,000.
June	Contract awarded to Urban Institute on evaluation standards. Estimated completion June 1976 at a cost of $216,000.
July	Contract awarded to Berkeley Planning Associates on individualized written rehabilitation program. Estimated completion March 1976 at a cost of $91,000.
August	Contract awarded to Rehab Incorporated for definition of severely handicapped. Estimated completion March 1976 at a cost of $49,000.
December	Revised regulations on program evaluation standards issued.

Mr. AHART. I would like to highlight some of the problems in the program, as perceived by the persons we interviewed, including RSA headquarters and regional office officials, and State rehabilitation officials, including counselor supervisors and counselors, State internal auditors, and rehabilitation facilities staff.

Due to funding limitations, State agency management officials envision continued difficulty in identifying and serving the most severely handicapped.

Counselors are concerned about being able to provide services to the severely handicapped while, at the same time, managing an ever increasing caseload.

Counselors are also concerned about the effects that serving the most severely handicapped first will have on available funds since rehabilitating this group is generally more expensive.

Historically, clients have been served on a first-come first-served basis. If funds become short, counselors might experience problems in adhering to the concept of providing services to the severely handicapped first. Counselors have traditionally been rated based on the number of rehabilitations achieved, and counselors have expressed apprehension about spending larger sums of money on individual clients while rehabilitating fewer clients. They believe that a weighted case closure system should be implemented to show the extra efforts required in serving severely handicapped persons.

State officials and RSA headquarters staff expressed concern that cooperative and/or third party agreements have committed State agencies to serving many less severely handicapped clients.

For example, RSA officials advised us that in at least one State, Comprehensive Employment and Training Act agreements have resulted in an influx of less severely handicapped persons into the rehabilitation program.

Also, the Kentucky rehabilitation agency enters into agreements with other State agencies which provide the funds needed to match Federal rehabilitation funds. In some cases, these agreements can limit the State rehabilitation agency's flexibility and commit it to serving less severely handicapped persons who are clients of other State agencies.

In our opinion, under such agreements, a State rehabilitation agency can lose control of how the funds are spent and redirection of the program under such circumstances can be difficult.

We believe RSA should evaluate the methods used by State agencies to serve the severely handicapped and look into the impact of increased reliance on cooperative and third party agreements on serving the severely handicapped.

State rehabilitation agencies believe they are obligated to serve these clients under these agreements even though they might be less severely handicapped. We believe that this could have an adverse affect on serving more severely handicapped persons.

RSA officials advised us that a national weighted case closure system is not being developed. Counselors believe that such a system would give added incentive to increasing services to the severely handicapped because they believe that emphasis on sheer numbers of rehabilitations as a measure of performance would be reduced.

Mr. Chairman, thus far, I have limited my discussion to our 1973 report and the 1973 act. However, I would like to mention briefly the Rehabilitation Act Amendments of 1974 which resulted in the transfer of RSA from the Social and Rehabilitation Service to the Office of the Assistant Secretary for Human Development in February 1975. This move was expected to result in an increase in staff directly identifiable with the rehabilitation program.

At RSA headquarters, the transfer resulted in 221 positions being transferred from the Social and Rehabilitation Service to the Office of Human Development. Also, 5 new positions were created. However, of the 226 positions, 32 were transferred to the Developmental Disabilities Office. Thus, RSA headquarters positions totaled 194.

In the 10 HEW regional offices, the positions totaled 172; 167 were transferred to RSA from the Social and Rehabilitation Service; 40 new positions were created, and 35 were transferred out of RSA to the Developmental Disabilities Office. Altogether RSA positions totaled 366.

We made inquiries at 3 HEW regional offices to determine what changes had occurred as a result of the RSA transfer. In each of the regions the staff increased by about 100 percent. In the Philadelphia region, total staff went from nine to 20; in Atlanta, from 12 to 23; and in Chicago, from 11 to 21.

State agency officials in Kentucky and North Carolina advised us that so far the increase in RSA staff has resulted in more timely and complete assistance on matters of concern to the States.

Based on our observations, we believe that HEW could have been more timely in providing guidance to the States and in redirecting the program to emphasize services to the severely handicapped. As mentioned, some issues still remain unresolved.

Mr. Chairman, that concludes by statement and we will be pleased to respond to your questions.

Mrs. FORSYTHE. Thank you very much, Mr. Ahart.

I want to take this opportunity, on behalf of all the staff, to thank you and your colleagues in GAO who have been so cooperative in meeting with the staff on this, as well as other matters and for the reports that we have requested, or the Senator has requested of your agency.

I have no questions at this time.

Mr. HUMPHREYS. Just very quickly.

In the light of your review of the operation of the rehabilitation program to date, do you have any recommendations for substantive or clarifying amendments to the Rehabilitation Act that you can provide to us now?

Mr. AHART. I do not have any specific recommendations, Mr. Humphreys.

There is one point obviously of concern to the agencies. It is of concern to the program people and of concern to us, and that is the degree of emphasis which could realistically be placed on meeting the needs of the severely handicapped, considering the disincentives, and the fact that the program has traditionally served people on a first-come first-served basis.

I think there needs to be some direction to the agencies on who they should leave out, if they are going to spend resources in trying to met the needs of the severely handicapped.

The problem of counselors and the rating systems tending to focus on how many successful rehabilitation counselors can achieve is obviously a disincentive to them in reaching the more severely handicapped which requires more resources and more of their time.

We feel very strongly that RSA should be putting some effort in developing a well-conceived weighted case closure system, which would adequately measure what is being accomplished under the program.

Mr. HUMPHREYS. When I hear that, I get a sense of deja vu. We heard that very same thing, assurance by HEW, back in 1973 when we were considering that act, that they would be developing a weighted case closure system.

Do you know why they stopped working on that if, in fact, they ever did work on it, and you indicated that they did not have any plans for development of a weighted case closure system?

I assume, as an adjunct of my first question, that you would strongly recommend that they do develop one?

Mr. AHART. Yes. We think it is very important to have one.

As for reasons for moving ahead on that point, I think Mr. Niemi has talked to Dr. Adams about it, and other members of RSA's staff, and he would probably like to comment.

Mr. NIEMI. As we understand it, RSA has received input from 7 or 8 States. They were unable, based on information submitted by States, to come up with a system that they felt could be applied on a national basis. And as we understand it, after looking at the information, it was left at that, and no further plans are currently in the works for coming up with such a system on a national basis.

Mr. AHART. I might add, Mr. Humphreys, in answer to the general question, one other point that I brought out in my statement is the need for some clarification, either in the statute or in the legislative history, as to which programs ought to be spending the first dollar to meet the medical needs of rehabilitation clients.

There seems to be a conflict now between the Medicaid program and other resources, where available, and the Rehabilitation Act which, in turn, says the same thing.

We think that needs to be clarified.

Our view is expressed in our 1973 report. General programs, such as Medicaid, if they are available to meet the health needs of the clients, should probably be used where it is feasible to do so and still meet the needs of the client.

Mr. HUMPHREYS. In that connection, you did develop a study for the Ways and Means Committee.

Is that available, and could you supply it to the subcommittee?

Mr. AHART. What are you referring to, Mr. Humphreys? The one we did specifically at their request, that we testified on a couple of weeks ago, which had to do with the beneficiary rehabilitation program?

That is available only in draft form to the Ways and Means Committee at this time.

We would expect that the final report would be issued within a matter of about 6 weeks, and we will be happy to make it available to the subcommittee at that time.

Mr. HUMPHREYS. Thank you.

In your view, are all the contracts that you refer to in your testimony let by HEW worthwhile ones, and would you have any recommendations as to the alteration of priorities in their letting of such contracts?

Are they on the right track, in other words?

Mr. AHART. I do not have any personal views on that. I have not studied them.

Mr. Niemi might want to comment.

I think in general we would have some concern as to the need to let this many contracts to meet the mandates of the act.

It would seem to us, to the extent that the in-house capability could be acquired to do the things that are very basic to the planning and implementation and administration of this program, that they ought to have that kind of capability in-house.

Mr. Niemi might have some views on specific contracts.

Mr. NIEMI. I might only add that I have some question concerning possibly the timing of some of the contracts. Specifically, concerning the evaluation standards, there seems to be at present two contracts going on at the same time to accomplish somewhat, at least, the same objective. This is a question of timing of the contracts.

Mr. HUMPHREYS. Just one more question very quickly.

Do you have data on the total number of HEW employees that were involved in the rehabilitation program in 1968, say, compared with the data you supplied us in your testimony?

It would be an interesting comparison, I think.

Mr. AHART. We may have that information. If we do, Mr. Niemi would be familiar with it. If not, we could furnish it for the record.

Mr. NIEMI. Did you mention 1968?

Mr. HUMPHREYS. Yes, just an arbitrary date.

Mr. NIEMI. We do not have staffing figures. We have requested some information from RSA concerning the change from SRS, and we have yet to receive any information.

Mr. HUMPHREYS. My only point is that the indication in your testimony that there had been an increase in the number of staff positions within RSA as a result of the transfer.

Mr. AHART. The only information we have, Mr. Humphreys, was at the time of the move. After the move and after the creation of a separate Developmental Disabilities Office, RSA's authorized positions totaled 366. Mr. Niemi has been trying to get an updated figure from RSA on that.

Our only specific information is concerning three regional offices, where there has been about a 100-percent increase in Federal staff since the shift to the Office of Human Development.

Mr. HUMPHREYS. Thank you very much.

That is very hopeful.

Mrs. FORSYTHE. Thank you very much.

Mr. Andrews, minority counsel.

Mr. ANDREWS. In your investigation of the program, have you taken any look at all, or do you have any recommendations with respect to the situation involving State organization, such as Florida's Reorganization Plan, or would you be ready?

Mr. AHART. We have not looked at the Florida situation specifically. I think we understand basically what the argument is about.

It has been my experience that regarding organization, whether at the Federal level or State level, there are a lot of arguments, and valid arguments that have been made pro and con. I think whether or not the Federal Government ought to mandate a single State agency for a particular program has to rest on how much emphasis the Congress wants to place on meeting the needs of a particular target population or a particular need of a population generally.

Regarding the Florida situation, I think that you can argue that you could bring together better the resources of Medicaid and perhaps other programs with the vocational rehabilitation money to focus on the total needs of the individual.

If, however, the Congress felt that would deemphasize the resources to this particular population group, the argument could go the other way.

I think the argument this morning—well, the argument could be made both ways by different people, depending on how they view the situation and which perspective they have.

We have not studied it and we have no view on that.

Mr. ANDREWS. Thank you.

Mrs. FORSYTHE. Thank you very much, Mr. Ahart.

This will conclude our hearings, and we will resume Thursday morning, the 26th, at 9:30.

[Whereupon, at 12:30 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Thursday, February 26, 1976.]

REHABILITATION OF THE HANDICAPPED PROGRAMS, 1976

THURSDAY, FEBRUARY 26, 1976

U.S. Senate,
Subcommittee on the Handicapped of the
Committee on Labor and Public Welfare,
Washington, D.C.

The subcommittee met pursuant to notice at 9:38 a.m., in room 4232, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph and Stafford.

Senator Randolph. Good morning, ladies and gentlemen. We are continuing our oversight hearings in order to take a look at the implementation of the Rehabilitation Act of 1973.

We are gratified to have the Architectural and Transportation Barriers Compliance Board with us. They will tell us of their activities in carrying forward the provisions of section 502 of this law. The members of the subcommittee are intensely interested in what has been accomplished as of this date and what goals have been developed for the future. Assistant Secretary Stanley Thomas of the Department of Health, Education, and Welfare is with us. He serves as Chairman of this Board and will be accompanied by other members of the Board.

However, before hearing the members of the Board, we welcome the Representative from the Second District of Connecticut, Christopher Dodd.

Christopher, the chair embraces this opportunity to recall his pleasant association with your father and to remember the occasion especially when he accompanied me to Fairmont, W. Va., and spoke there at a Veterans' dinner. I know of your intense interest in this subject matter and of your leadership in the House. We would be grateful to have your testimony at this time.

Representative Dodd. Thank you, Mr. Chairman.

Let me say as well that I recall on many occasions how warmly my father spoke of you, and his close association with you during the years he served in the Senate.

Particularly for me in my first term of Congress, I am delighted to be able to appear before you and this subcommittee, to congratulate you on the work you are doing in this matter. I think that it is tremendous. I want to thank you for the opportunity to testify this morning on the Rehabilitation Act of 1973, specifically the civil rights provisions of this legislation, sections 501, 503, and 504.

It is my belief that we as a nation have been grossly negligent in failing to eradicate the barriers of discrimination which the mentally and physically handicapped face both in the public and private sectors of our society. The Rehabilitation Act of 1973 stands on an affirmative step by the Congress to remove these discriminatory barriers at least from the Federal Government, the Federal contractors, and recipients of Federal financial assistance.

However, we must go beyond the protections afforded the handicapped in the Rehabilitation Act and prohibit private discrimination in the areas of employment, architectural barriers, housing and transportation. To this end, last year I introduced legislation to prohibit discrimination against the mentally and physically disabled in the House in employment; and last fall conducted extensive hearings on private employment discrimination to develop a background on the problems the handicapped face in this area.

I have requested and will continue to work for hearings before the House Judiciary Committee on Constitutional Rights to which I belong for the mentally and physically handicapped in the areas of housing and employment.

Even with the provisions already enacted by Congress in the Rehabilitation Act of 1973, specifically sections 501, 503, and 504, there has been little elimination against discrimination against the handicapped. This is a result of one, a lack of enforcement by the Federal Government of these sections, and, two, the failure of these laws to provide adequate protection and penalties so as to insure compliance with them.

At my request the General Accounting Office undertook a study of sections 503 and 504 of the Rehabilitation Act of 1973. Their report issued last August disclosed that 3 years after enactment there has been minimal enforcement of section 503 and none devised by the executive branch to implement 504.

Senator RANDOLPH. Representative Dodd, what is the reason for the reluctance?

Representative DODD. Well, I think it is more of a nonfeasance. At least that seems to be. They just have not put the people for one thing in the enforcement area. If I recall directly from the GAO study, there were some 14 to 20 people charged with the responsibility of enforcement in the Federal Government and they were not capable, nor did they have the kind of support they felt they needed in order to enforce the sections of that act. Further, there did not seem to be a commitment by the executive branch to see that those sections were actually enforced.

Senator RANDOLPH. Thank you.

Representative DODD. As you know, section 503 requires all Federal contractors with contracts in excess of $2,500 to take affirmative action regarding employment of handicapped. Section 504 prohibits discrimination against otherwise qualified handicapped individuals.

Mr. Chairman, I was thinking as I was reading this, that the study that the GAO conducted for me might be of interest to you and the record and I would certainly be willing to supply the subcommittee with a copy of that for your investigation and certainly for your perusal.

Senator RANDOLPH. It would be very helpful for us to have such a report, and we will have our staff work with your staff. After reading it, we could return it to you, if you wish.

Representative **Dodd**. Very well.

Senator **Randolph**. And we will have that exchange of information.

Representative **Dodd**. Thank you, Mr. Chairman.

It is a disturbing and disheartening commentary for the Federal Government that the executive branch through the President can expeditiously make a change in the intelligence operations in this country but is unable or at least unwilling to issue an executive order to provide enforcement mechanisms for section 504.

Besides the only recent preparation by HEW regarding section 504 to issue proposed regulations in application to its own programs, there has been no positive action by the executive branch to enforce section 504 since enactment. It took a letter from five Members of the Congress specifically requesting action on 504 for the White House to recognize there were problems in the enforcement of this section.

After agreeing with us that the Federal Government favored civil rights responsibilities for the handicapped, the White House informed us that they were working to correct these deficiencies. Then, there were many more months after that exchange and there is still no executive order.

While some of the indications of the White House sound promising, I seriously question whether it would be for us in Congress to let the civil rights of the handicapped rest on rumors. The executive has ignored the will of Congress as expressed in section 504 and has taken advantage of the lack of specific enforcement mechanisms in the act to sit back and do nothing for 3 years now.

Senator **Randolph**. Are you saying, Mr. Dodd, that this agency is subverting the action or intent of the Congress——

Representative **Dodd**. I think the act indicated we would not have enacted it if we did not expect for it to be enforced. The fact there has been no action in the enforcement—I do not know whether I used the word "subvert" and I do not want to second-guess the actions of other people whose intention I presume was good and sound; and that is why I referred to it as more of a nonfeasance or malfeasance rather than a misfeasance.

Senator **Randolph**. You have used rather strong language, you know, in your statement there. And I am not saying that it is not the language you wanted to use. I looked upon the language used as really saying that the intent of Congress had been subverted.

Representative **Dodd**. The only word I have difficulty with is "subvert." But I certainly have strong feelings on the intent of Congress, which has not been followed up or pursued by the executive branch.

Senator **Randolph**. Well, is that by design?

Representative **Dodd**. I hesitate to say that.

Senator **Randolph**. Intent of the agency?

Representative **Dodd**. I would hesitate to say it was their intent to do so. What I am getting at I think here is an example of what we are seeing throughout the country regarding the handicapped; the attitude would be that people just do not seem to want to recognize the problem. They just do not seem to want to recognize the tremendous difficulties that exist with these people in employment and housing; that is why I hesitate to use your word subverted.

I think they have taken the attitude of many people in this country saying there really is not much to be done in this area, and they have sat back and done nothing. As I say, I do not think they have intentionally done so, but they have not recognized, despite the action of the Congress, the present problem that exists in the area.

Senator Randolph. At times there are problems because the language of the reports is unclear. It could be that we in the legislative branch could improve our procedures and clarify our meaning as we write legislation.

Do you agree sometimes we are at fault?

Representative Dodd. I would. Again I hesitate to speak with any great expertise given the fact of limited experience in my year and a few months in the Congress. But I think what we are touching on is very true. Not only that, but our followup many times is sorely lacking. I think sometimes after we enact legislation probably too long a period of time goes by before we really do the kind of close examination as to how well or what problems may exist in the agencies or in the executive branch with regard to legislation that has become law.

Senator Randolph. Oversight hearings enable us to look not only at the implementation of the law, but also at the language contained within the law in order to determine whether or not it says what in fact we intended it to say.

I am sorry I talked too long on that subject; but I think it is important to try to have a partnership with the executive branch, not a confrontation.

Representative Dodd. I agree with you and particularly on the point of oversight. The kind of exchange which results in oversight hearings is needed to improve legislation.

Senator Randolph. Of course, you are aware we have asked many questions of the administration on the implementation of the act. So we are trying to pin down the problems and that is what you are attempting to do in your questions.

Representative Dodd. Very good. I will try and finish this up so I do not tie up your time.

Senator Randolph. You do not need to read it all. You can just comment on any portion.

Representative Dodd. What I will do is that and it——

Senator Randolph. It will be made a part of the printed record.

Representative Dodd. And what section 503, 504, and 501 all are—and I have discussed it with my own staff and members of the staff of the House Committee on Constitutional and Civil Rights on how best to give them the clout they need. I feel quite strongly that there is a distinction here in discrimination in this particular area from the discrimination we have seen in our recent past history and specifically the problem of nonfeasance. I asked my staff just to spend a day and to be conscious of a handicapped person, either the paraplegic or what have you, and recognize in a given day the things you could not do when you are burdened with that particular handicap; it is amazing the barriers that exist in business, transportation, accommodations, simple things, etc., that those of us who are blessed with all of our physical facilities do not recognize what it means. And I think many of our employers are not consciously discriminating against people; they do not recognize there is no way to get to the business or if they could get to their business there is no way to get to the second or third floor. You have in effect almost de facto discrimination and, again, I emphasize it is not a question of malfeasance; it is really just not being aware of the problems that these people face.

Similarly, I think this is the problem with the civil rights provisions in the Rehabilitation Act.

So Mr. Chairman, I would just like to thank you for giving me the opportunity to come before you and submit this testimony for the record and compliment you and the subcommittee for having these hearings. I think it is tremendous that it is being done and I am sure that the handicapped throughout this country will thank you for it and I hope we can be as successful in the House in complementing what you are doing here in the Senate.

Again, I appreciate your work and the opportunity to be here.

Senator RANDOLPH. Representative Dodd, I believe you had hearings last fall, is that correct?

Representative DODD. We did. In my State, yes.

Senator RANDOLPH. In your State.

Now, was that a record that was printed?

Representative DODD. Yes; it was.

Senator RANDOLPH. It is available?

Representative DODD. It is available, yes it is.

Senator RANDOLPH. I think that we would like to secure a copy through you because that transcript would be of value to us.

Representative DODD. I would be delighted to furnish it, Mr. Chairman. I think you would be interested. We have industry from Connecticut, Pitney-Bowes from Stamford, Conn., who has been in the forefront in hiring handicapped people, and I think you would be interested in some of their experiences.

Senator RANDOLPH. Representative Dodd, you used the words "put teeth in it." I am not sure in what context you used it. But there had to be teeth in the enforcement, or words to that effect. Now, as we think of enforcement or affirmative action, do you have suggestions as to how best this can be done? Is it just a matter of hiring more people; or is it better planning, management, or training?

Representative DODD. Well, in the first instance I think it is going to require some legislation possibly to review some of the language in Title VI, Civil Rights Act and bring that into play in these sections. That would be a first consideration. Certainly I think you are going to have a necessity for more personnel. That is one of the complaints we received back on one of the problems of enforcement of sections 503 and 504. They were personnel problems, not really enough people to monitor those two sections.

So I think you have got a problem in that area as well. So those two I think would be the first step.

Senator RANDOLPH. Well, we might be passing too many laws.

Representative DODD. I recognize that.

Senator RANDOLPH. Some people are very strong in their statements about that.

Representative DODD. I recognize what they are saying; but you know when you have many millions of people, as we do in this country, that are handicapped and discriminated against, then I think it is our obligation to right that wrong. It is unfortunate that we have to go that route, that we should have to be sitting here today to be addressing the problem, and talking about additional people in government or laws to put teeth into legislation to enforce rather than rely on voluntary nondiscrimination against handicapped in our society.

Senator RANDOLPH. We are in a very big area, are we not, when we are talking about the provisions for enforcement of a certain law; frankly, we seem to be unable to cope with enforcement problems in all areas, particularly when it comes to crime.

Would you comment on it?

Representative DODD. Well, I cannot disagree with you in terms of the problems we have in enforcing our laws, our criminal laws. But I do not feel that because we do not seem to really be able to get a tight handle on enforcement, in so many aspects of society, that we should therefore conclude that enforcement of laws that would right wrongs should be set aside or negated. I cannot agree with you more. I think no matter where you live, whether in the District of Columbia or small town in the eastern part of Connecticut we have a problem enforcing laws in the area of crime.

But certainly I feel for one that it is no less of a crime to discriminate against someone because they happen to be blind.

Senator RANDOLPH. I know you have a sister who is blind.

Representative DODD. A sister who is legally blind.

Senator RANDOLPH. Yes.

Representative DODD. And she was fortunate enough to be raised in a family where she had opportunity of education and the kind of care and treatment necessary to later have a productive role in our society. But she was lucky. There are millions, in fact literally millions of people in this country who suffer the same affliction she did, either total blindness or at least seriously impaired vision. We are making great strides in medicine in that area, but there are many jobs she could not get because people did not think she was quite right and quite capable of handling it.

You talk about section 501. The State Department has a prohibition against hiring anyone as a foreign service officer who is blind. There are millions of people in this country and all over the world in fact that are blind where we send out foreign service officers. I recognize there may be some problems that a blind person may have; but I think we, the seeing, for instance, set limitations on the blind assuming difficulties without really recognizing they are very careful and do not do things that are foolish. I am sure we will find that the incidence of pedestrian injury or death is lower among the blind than the seeing, for instance. But there is a clear example of ineffectiveness of 501 to eradicate discrimination in Federal Government employment because no real mechanism exists for anyone to contest that kind of problem.

They have a committee set up to discuss it with the State Department and so forth about a provision, but there really is not any way for someone to really address the problem. That is just one example. We had the State Department in my office, as a matter of fact, and they are very understanding and I think we are going to try to be able to work something out. But it is those things and those kinds of attitude that I consider to be wrong and seriously wrong. It is as much wrong as stealing a colored television set or clothes from someone's house.

That is why I feel we really have to undertake greater enforcement and legislate sanctions in this area.

Senator RANDOLPH. Your statement and your colloquy with the Chair is very much appreciated. We have a neighbor of yours here Senator Stafford of Vermont. I do not know whether that is a smaller, bigger, or better State than Connecticut, but they are both up there in New England. Off the record.

[Discussion off the record.]

Senator RANDOLPH. On the record.

Representative Dodd has been with us, Senator Stafford, and he is discussing the reluctance or at least the inattention of DHEW in carrying out certain provisions of law. Basically, he is addressing himself to sections 501, 503, and 504.

Senator STAFFORD. Yes, Mr. Chairman.

I am very happy to join with you in welcoming Congressman Dodd here. I was intrigued by his observations about the State Department and I would presume that that would be a matter of policy that the Department has been pursuing and not a matter of law.

Representative DODD. It is a regulation.

Senator STAFFORD. A regulation?

Representative DODD. Yes.

Senator STAFFORD. If you would for the record provide a copy of that regulation for this subcommittee it would be helpful to us.

Representative DODD. I would be glad to.

As I say, it is something they are very cooperative on recognizing as a problem. But many times we here, who have the facility and ability to do certain things, set limitations on others based on our own feelings, which we are really able to do. Further, one of the areas I would be interested in pursuing in addition to the physically handicapped is mentally handicapped who are discriminated against as well. There are millions of people in this country whose own psychiatrist tells them to lie on their job applications rather than to admit they had a mental or emotional problem, not to mention retardation of some kind. I do not know really what we can do in this area. It is much more nebulous and difficult to handle than discrimination against the physically handicapped. But something has got to be done when you consider that someone who may have an emotional problem, but has been cured, may be penalized when it comes time to look for a job. That is an area I think we really have to address and spend more time on as well.

Senator RANDOLPH. Representative Dodd, I have no further questions except to commend you for your attention to the problems that you believe are preventing the fullest implementation of the law.

Representatives DODD. Thank you very much, Mr. Chairman and Senator Stafford.

Senator RANDOLPH. Stanley Thomas, you are here as Chairman of the Architectural and Transportation Barriers Compliance Board. You have board members associated with you in this important work.

We want you to proceed as you would desire; in addition, we might have questions that we would direct to you and some of your associates at a later time. Please introduce the members of the Board who are sitting with you.

STATEMENT OF STANLEY B. THOMAS, JR., CHAIRMAN, ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD, ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; ACCOMPANIED BY: JUNE WAKEFORD, REPRESENTING BERNARD E. DeLURY, ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS, DEPARTMENT OF LABOR; JUDITH T. CONNOR, ASSISTANT SECRETARY OF ENVIRONMENT, SAFETY, AND CONSUMER AFFAIRS, DEPARTMENT OF TRANSPORTATION; ODELL W. VAUGHN, DEPUTY ADMINISTRATOR, VETERANS' ADMINISTRATION; JAMES T. CLARKE, ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF THE INTERIOR; A. C. MAEVIS, ASSISTANT POSTMASTER GENERAL, REAL ESTATE AND BUILDINGS DEPARTMENT, U.S. POSTAL SERVICE; GEORGE BROWN, REPRESENTING DAVID S. COOK, ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; DIANE WALTERS, REPRESENTING T. M. CHAMBERS, DEPUTY ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION; AND HOWARD METCALF, REPRESENTING DR. JOHN J. BENNETT, ASSISTANT SECRETARY OF DEFENSE FOR INSTALLATIONS AND LOGISTICS, DEPARTMENT OF DEFENSE

Mr. Thomas. Thank you very much, Mr. Chairman.

I am delighted to be here and if I may I would like to introduce the members of the Board who are here.

On my far left is Ms. June Wakeford, representing Mr. Bernard E. DeLury, Assistant Secretary for Employment Standards, Department of Labor.

Next to her is Mrs. Judith T. Connor, Assistant Secretary of Environment, Safety, and Consumer Affairs, Department of Transportation.

Senator Randolph. Glad to have you, Mrs. Connor.

Mr. Thomas. Next to her is Mr. Odell W. Vaughn, Deputy Administrator, Veterans' Administration.

Senator Randolph. Glad to have you, Mr. Vaughn.

Mr. Thomas. And to my immediate left is Mr. James T. Clarke, Assistant Secretary for Management, Department of the Interior.

Senator Randolph. Welcome, Mr. Clarke.

Mr. Thomas. To my immediate right is Mr. A. C. Maevis, Assistant Postmaster General, Real Estate and Buildings Department, U.S. Postal Service.

Senator Randolph. Glad to have you.

Mr. THOMAS. Next to him is Mr. George Brown, representing Mr. David S. Cook, Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner, Department of Housing and Urban Development.

Then next to him is Ms. Diane Walters, representing Mr. T. M. Chambers, Deputy Administrator, General Services Administration; and

Then lastly is Mr. Howard Metcalf, representing Dr. John J. Bennett, Assistant Secretary of Defense for Installations and Logistics, Department of Defense.

Senator RANDOLPH. Thank you, Mr. Metcalf.

You are a formidable group and you are a little longer than the table.

We are very happy to have you all and to listen now to your presentation, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman. My testimony is relatively brief and I would like to read it to you.

I am pleased to appear before the Subcommittee on the Handicapped to discuss the Architectural and Transportation Barriers Compliance Board and the progress it has made in executing its legislative mandate.

The Board was established by section 502 of the Rehabilitation Act of 1973. Statutory membership to the Board includes the Cabinet level officials, or their executive level IV designees, of the Department of Health, Education, and Welfare; Transportation; Housing and Urban Development; Labor; Interior; and Defense, as well as the General Services Administration; U.S. Postal Service; and the Veterans' Administration.

To fulfill its mandates and to enable it to assume its role as a major national force in the elimination of barriers, the Board was given specific powers. It has authority to conduct investigations, hold public hearings, and prepare and submit, to the Congress and the President, plans or proposals for such further legislative and administrative actions necessary to secure a barrier-free environment.

In order to secure the information sought by the Congress, and to develop the Board's programs, we have recognized that it is necessary to identify and bring together the many agencies, organizations, groups, and individuals already working toward related goals, whose cooperation is essential to effective and comprehensive action.

Accordingly, in 1974, the Board conducted a national hearing on transportation problems of the handicapped and in 1975, a hearing on housing and the handicapped. It also is actively engaged in programmatic working relationships with those national organizations concerned with, and involved in, ensuring accessibility of facilities for handicapped individuals.

The housing hearing was held in Chicago and produced relevant dialog and recommendations which should assist in providing handicapped citizens with the same alternatives for housing that are available to the nonhandicapped.

A review of the housing hearing is set out in the Board's report to the Congress and the President, titled "Freedom of Choice." A report on the transportation hearing was contained in the Board's first annual report to the Congress.

The Board staff has developed close working relationships with consumer organizations representing disabled individuals. Staff associated with the Board have solicited representation or active participation of selected groups in a number of activities. As mandated by the Congress in the 1974 amendments to the Rehabilitation Act of 1973, the Board has recently established a consumer advisory panel, the National Advisory Committee on an Accessible Environment. At least half of its members are handicapped individuals. This group, also, will provide advice, guidance, and recommendations to the Board in carrying out its functions.

The Board staff is currently developing a system to insure compliance with the Architectural Barriers Act. This system is being designed to promote maximum voluntary compliance through monitoring, surveying, and investigative functions, as well as mandatory compliance through administrative hearings. The Board staff is currently circulating to the General Counsels of the member agencies, draft regulations formally establishing compliance procedures.

It may be of interest to the subcommittee to know that as part of the Board's compliance program, there will be a systematic and continuing review of the agencies' central and regional procedures in design review, construction related to granting and contracting activities, data gathering, recordkeeping, and issuance of internal guidance materials. In support of the compliance system, efforts are now being initiated for the development of regulations and guidelines for the operation of compliance system components within each of the affected agencies.

The General Accounting Office report this past summer, "Further Action Needed To Make All Public Buildings Accessible to the Physically Handicapped," recommended that the Board coordinate the development of standards to insure their adequacy. The recommendation is one with which the Board fully concurs. It is consistent with the Board's stated goal of assuring the evaluation and revision of the American National Standards Institute accessibility standards on a systematic and continuing basis. Further, the recommended action is supportive of the Board's role to act as a reasonable force for providing leadership and oversight of all Federal activities pursuant to Public Law 90-480.

The Board has no standard making responsibilities under Public Law 90-480, as you well know. However, in support of the Board's assumed lead role under Public Law 93-112, the Rehabilitation Act of 1973, the Secretary of the Department of Health, Education, and Welfare, will exercise his consultative responsibilities under Public Law 90-480. He also recommends action in his capacity as statutory Chairman of the Board. This procedural arrangement will facilitate responsiveness to the GAO recommendations that the Secretary of Health, Education, and Welfare take a leadership role in revising agency prescribed standards when necessary, and that the Board coordinate the standards development activity by the several administering agencies to insure that such standards are adequate to eliminate barriers to the physically handicapped in federally financed buildings.

The Board has contracted with the National Academy of Sciences, Building Research Advisory Board, to provide services to assist the Federal Government in evaluating, revising, and expanding all existing accessibility related standards. The project will also serve to provide necessary assistance for the coordination of all Federal standards development activities. The purpose, of course, is to assure the comprehensiveness and consistency of such efforts. The project is being undertaken with the active participation of handicapped individuals, design and construction experts of the private and public sector, including the agencies charged with standards development responsibilities under Public Law 90-480.

Mr. Chairman, this concludes my testimony on the activities of the Architectural and Transportation Barriers Compliance Board. I will be happy to answer any questions you may have.

I would like to also mention that with us today are Mr. James Jeffers, executive director of the Board, and Mr. Charles Goldman, the Board's general counsel.

Thank you.

Senator STAFFORD. The Chair ought to remember the name of James Jeffers since that name is similar to that of Vermont's representative in the House.

I thank you for your statement.

I think the record should show that in addition to chairing the Board you also are the Assistant Secretary for Human Development in the Department of HEW and the Chair does have a few questions which we will ask you or the members of your Board.

The first question I have is, how many complaints of noncompliance have been received by the Board since it was created?

Mr. THOMAS. Mr. Chairman, I am informed by staff that 127 complaints have been received by the Board; approximately 90 of those complaints, however, were recently received by the Board as a result of the General Accounting Office survey that I mentioned in my opening statement.

Senator STAFFORD. How recently, Mr. Thomas, were they received?

Mr. THOMAS. I do not know the exact date but I would ask Mr. Jeffers if he could respond to that.

Mr. JEFFERS. Approximately 2 to 3 weeks ago.

Senator STAFFORD. Thank you. Of the complaints which you have received, and I realize that most of them only came in within 2 weeks, the percentage may not be high, but how many of these complaints have been resolved?

Mr. THOMAS. Of the 127, Mr. Chairman, most have not been resolved. The Board staff has been working on establishment of a compliance system and, at the same time, we have circulated to the general counsels of the member agencies, regulations relative to the penalties involved. We have not resolved those complaints which have been received as a result of the GAO survey.

I would mention—Mr. Jeffers may want to expand on that, Mr. Chairman. There have been instances in which complaints have been received by the Board from the general public and those complaints have, on occassion, been resolved by consultation between Board staff and member agencies.

Senator STAFFORD. Would you have some idea as to how many complaints have been received and handled in that way?

Mr. THOMAS. I do not know. Mr. Jeffers?

Mr. JEFFERS. Thirty-seven of the complaints we have received have been handled in that manner. I am apprised that the bulk of those complaints have been resolved after discussion with member agencies.

Mr. THOMAS. I would also say, Mr. Chairman, that the Board has not at this point in time, through its various activities, encouraged the submission of complaints prior to promulgation of our regulations and establishment of our compliance system.

I would imagine in the near future the number of complaints will expand markedly as a result of those systems being in place.

Senator STAFFORD. I gather that 37 of the complaints have been received from the public and I assume they are part of the total of 127?

Mr. THOMAS. Yes, they are, Mr. Chairman.

Senator STAFFORD. How have the rest come to the attention of the Board?

Mr. THOMAS. As I noted, the bulk of those were submitted to us within the last few weeks from the General Accounting Office.

Senator STAFFORD. Do you know how they came to the attention of GAO?

Mr. THOMAS. Yes, it was a result of their survey and their audit of this whole area, Mr. Chairman.

Senator STAFFORD. Thank you. Could you comment on those that have been resolved as to how many were resolved in favor of the complainant?

Mr. THOMAS. I would defer to Mr. Jeffers on that, Mr. Chairman.

Mr. JEFFERS. In processing the complaint we receive from the complainant, we log it in and refer it to the respective agency. We ask the agency to verify the alleged violation in the complaint and to report to us the corrective action that they are taking. Upon receiving that report and upon verification, we notify the complainant that resolution will occur. I would say that the bulk of our complaints are handled in that manner, and we have experienced substantial cooperation from the member agencies in resolving the complaints which we have received.

Mr. THOMAS. Speaking from the point of view, Mr. Chairman, of the Department of Health, Education, and Welfare—and I think my situation is probably very comparable to, those of the other members of the Board—when a complaint is received from Board staff by the agency, it is usually referred to, in our case, our facilities engineering people. They will communicate with their regional office. A surveyor will go out and look at the facility, recommend what corrective action should be taken, take that action and then submit the information to the Board for its information.

Senator STAFFORD. Mr. Jeffers, could you give us a specific example of a matter that has come to the attention of the Board from the public and has been resolved in favor of the complainant?

Mr. JEFFERS. I cannot give you a a specific example. Perhaps Mr. Maevis from the Postal Service, who I know has been involved in some of our complaints processing, might wish to comment.

Senator STAFFORD. If you cannot, Mr. Maevis, you can submit one for the record; if you can right now, it would be fine.

Mr. MAEVIS. Perhaps if I could spend a few minutes talking in general.

Senator STAFFORD. Certainly.

Mr. MAEVIS. Over the past years we have received probably a dozen complaints. At least several of them had already been corrected. For example, I know of one complaint in a town of Seldovia in Alaska, which is a small community not too far from Anchorage, where a new structure with access for the handicapped was not featured. It was a misunderstanding and the man who had planned this building, was given a directive to correct the condition. But, because of the weather conditions there, it will be corrected in the spring when construction permits it. This has been sort of a normal process. I think I see the bulk of the number in postal service and we have these investigated and corrected.

Senator STAFFORD. Thank you.

I would like to ask Mr. Thomas, you and your colleagues, about the current staffing of the Board. Is the staff sufficient; and, how many hearing examiners does it include and does the staffing level you have show a commitment to resolve outstanding complaints in your opinion?

Mr. THOMAS. Mr. Stafford, on the immediate staff of the board there are 11 people. In addition to that there are obviously services that are provided in an administrative context supportive to the Board's staff. Relative to the question as to whether that is sufficient, I suspect there is no bureaucrat in Washington who would say he or she had the total number of people that they need. But I would say pursuant to our basic mission of facilitating compliance through the member agencies, we think the staff we have can meet that need. I might also add that the work of the Board is also carried out substantially through a liaison committee which is composed of representatives from the member agencies who meet and make decisions or at least make recommendations so that to the 11 member staff has to be added the services provided on an administrative basis by other elements including my own office as well as intensive amount of work involved by the deliberations of member agencies and the liaison staff.

Senator STAFFORD. Do you have any hearing examiners? That was part of my question.

Mr. JEFFERS. No, we do not.

Mr. THOMAS. We do not have hearing examiners. In our compliance procedures we look to the use of administrative law judges.

Senator STAFFORD. Thank you.

I will ask one more question, Mr. Chairman, and then I will defer. Could you tell the committee what the board is doing to work with the CAB or the FAA in connection with difficulties of airline travel for the handicapped and the same question with respect to Amtrak?

Mr. THOMAS. I would defer that question, Mr. Stafford, to Mrs. Conner, the Assistant Secretary from the Department of Transportation.

Mrs. CONNOR. With respect to the question on the airlines, we currently are undergoing the rule-making activity in the FAA which would set the basic standards for safety reliability and that is within 60 days of promulgation. In addition to establishing a basis for safety they will also issue an advisory circular which will guide the airlines in developing the standards for training of their employees in handling of elderly and handicapped on flights.

With respect to Amtrak, Amtrak has issued a policy statement which I feel is an example of something we would like to see expanded within the department. It is an indication not only of the commitment to accessibility to all new equipment but also to retrofit—in our terminology—the old equipment to the standard that is feasible and economically possible.

So Amtrak has really made a strong commitment and they will also be looking very hard at their facilities in addition to equipment. The basic guidance and policy statement that Amtrak has issued has put a great deal of emphasis on the use of their staff for the purpose of assisting the elderly and the handicapped that use their services.

Senator STAFFORD. Thank you.

Mr. Chairman, I think I have used up my time, under the 10 minute rule.

Senator RANDOLPH. Never with you, Bob. Now, Mr. Thomas, you have spoken of the recently established consumer advisory panel. Now, do you actually have a panel?

Mr. THOMAS. Well, Mr. Chairman,—I have recently signed letters to the invitees. These are people that the board has agreed should serve on the National Committee for An Accessible Environment. The letters just recently went out and I was hoping that all the invitees would accept membership and we signed off on the charter of the council also.

Senator RANDOLPH. Now, what is the tenure of service?

Mr. THOMAS. The terms are for two year periods on.

The committee will hold its first meeting in the near future.

Senator RANDOLPH. Now, you have invited certain people to hold these positions. I do not expect you to tell me how many and that sort of thing. However, I want to know about expertise and background of those asked to become members and why they were asked.

Mr. THOMAS. Just one second, Mr. Chairman.

Mr. Chairman, I am afraid that we do not have a list of the invitees but I could make several comments on that.

One is that we put a great deal of emphasis on the inclusion of handicapped people in terms of membership. More than 50 percent of the members of the committee, as I remember, are handicapped individuals.

Secondly, general areas of concern such as geographic location, experience and area of expertise were the criteria around which the Board made their decision. People who had demonstrated a continual interest and involvement in the whole area of architectural barriers were invited. We would be delighted to provide the names for the record.

Senator RANDOLPH. Yes. That would be helpful. We would like to know what type people are being requested to do this very important job.

Mr. THOMAS. Unequivocably.

And I think my colleagues on the Board share my interest in insur-

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ing not only their participation but also the insight, if you will, they will have on our activity.

Senator RANDOLPH. Now, what are you thinking about in connection with enforcement procedures?

Mr. THOMAS. Well, Mr. Chairman, I think I should preface my remarks by saying that the Board has yet to take final action relative to the procedures and or regulations. But our current thinking is that we would have a compliance system which basically involves each member agency developing a compliance system which it would develop in consultation with the Board, and the Board staff would work with that member agency to insure that that system is functioning. We think this is the most credible approach both from the resource point of view as well as the knowledge that the member-agencies have would assist in developing a system that would indeed be effective.

We also, as I mentioned in my prepared testimony, have circulated to the General Counsels of the member agencies regulations about how we would not only review complaints but also impose, where necessary, the sanctions. If you would like further information about that, Mr. Goldman, our General Counsel, is prepared to give you a very brief overview of what those regulations entail. But the Board has not taken action on them pending careful analysis of their contents.

Senator RANDOLPH. I think it would be sufficient if you would supply for the record what you think desirable from the standpoint of the committee's interest.

Mr. Thomas, at the present time do you have information as to the number of buildings under your jurisdiction that can be made more accessible?

Mr. THOMAS. I think the General Services Administration has compiled a list and I think the postal service has also compiled a list of facilities that are under their jurisdiction relative to this particular statute. The principal interest would be in those buildings that are constructed and or leased subsequent to 1968. But I would like to see what we could provide you for the record, because I do not think right now we have any information.

Senator RANDOLPH. Do you have any difficulty finding those individuals who are competent for this type of work?

Mr. THOMAS. I think we have information on organizations and groups that have taken particular interest in the whole area of designing a barrier-free environment. When you have a moment, we would like you to see the film the Board has developed which includes a handicapped individual who comments on the ability of society to construct barrier-free environments and there are a number of organizations and groups that have taken a consistent interest in this whole area.

Senator RANDOLPH. Is that film available to interested groups throughout the country?

Mr. THOMAS. Yes, it is, Mr. Chairman. All I would say is we have not been in position to print as many copies as we want, but we have some copies that we can send to the interested groups. As a matter of fact, that was the purpose of it.

Senator RANDOLPH. How long is the film?

Mr. THOMAS. Oh, it is about 10 or 15 minutes. I might say that this is part of what we see as a very important element of the Board's work, which is to increase public awareness. I think you share our interest in insuring that people in local communities become far more interested and aware of what this means.

Senator RANDOLPH. I think perhaps members of our Subcommittee on the Handicapped might want to sponsor the showing of this film in their home States so that it might be viewed by people who are not cognizant of the problem. I would hope that we would follow through on that.

I only wish that we could show it here because it would be 15 minutes better spent than we might think our time generally is. But do you have any staff member or staff members who are able to discuss the film?

Mr. THOMAS. Oh, without question. Certainly Mr. Jeffers who is the executive director as well as other members of his staff are quite capable of discussing these kinds of issues and we would welcome the chance to discuss it with the subcommittee, staff and yourself and others who may be interested.

Senator RANDOLPH. Mrs. Connor, I come back to you in reference to the accessibility of the various forms of public transport. Now, sometimes there are people who have criticized transportation entities in this field. Having been in the airline industry for some 11 years, I know problems and I recognize them. I am sure that wherever mobility is involved, we have problems that we must face. We certainly can make tremendous improvements and we are in the process, I hope, of doing that. Would you have any overall comment to make as to how we can insure that mass transit systems are accessible to handicapped individuals while at the same time not destroying the effectiveness of the system?

Mrs. CONNOR. That is a big question.

In terms of all module interest, I would like to point out that the Federal Aviation Administration has done a great deal of testing in its center prior to promulgating the rules that are due to come out to determine exactly what the problems are associated with potential crash situations where there is a need to evacuate an airplane quickly.

FAA has a standard, when it is necessary to evacuate a plane within a number of seconds on a full capacity basis and they have simulated that kind of activity in their test center, to try to determine where handicapped people should be placed within an airplane under those circumstances.

It is quite interesting that they have come up with some conclusions that are quite different from what common sense might tell us. That is because on the rule and part of the established need to move slowly on that rule. In addition, I think there has been a tremendous amount of research within the Department to try to get answers on some of the questions on mobility. Our biggest problem I would say has been a technological one. It certainly relates to the mass transportation and the rail transportation where the development of the technology has not been on line as fast as we hoped it would be.

There is one that I am sure you are aware of, the transbus program which UMTA has had underway for sometime, which is to develop a bus which has the capability to kneel or have a ramp system of some sort. But in addition UMTA is trying, funding an effort on the part of the bus manufacturers on current bus design to try to develop a lift which is feasible within our current buses and is maintainable and could be used on regular basis without the problems of the parts and supplies and maintainability that we have foreseen in the past.

In addition to that FRA has also done some work in development of rail cars so that the aisles are wide enough and those kinds of aspects associated with the rails. And that effort has not progressed as fast as perhaps UMTA's has.

We are trying to draw up some, perhaps I should better describe as systems capability on vehicles to be able to complement the regular transit systems particularly with alternate systems to provide service through handicapped through small bus design and adequate small bus design and also vehicle design that would be more suitable to taxi service which would be able to provide accessible lifts on those kinds of vehicles.

Senator RANDOLPH. Do you find that the manufacturers of equipment, regardless of whether it is a bus or an aircraft or a railroad car, are cooperative in designing and building accessible products?

Mrs. CONNOR. I would have to answer that question as Mr. Thomas did with his question about adequate staffing, I think we have, we do not find the kinds of aggressive interest in this area that everyone would like to see. However, there is no question that manufacturers have become more responsive in the last few years in terms of trying to generate the kind of technology we need.

In the aircraft business it is not quite as difficult a problem because the designs for entrance into the airplane now in terms of the ramp, and setways used by airports has more or less ended the need of ramp activity. We do not find that as much of a barrier as we have in the public transportation business.

Senator RANDOLPH. Do you take any part as a member of the Board with UMTA in a suit which is brought by the public in the mass transit area?

Mrs. CONNOR. I am not personally involved with that, sir. The Administrator of the Urban Mass Transportation and the Secretary, I suspect, are joint defendants in suits of this sort. So I do not have any personal knowledge of these suits. I am aware of the issues and the reasons for them and the Department's position but I am not a party to the suits themselves.

Senator RANDOLPH. Are many suits pending, Mr. Thomas? Do you have any knowledge? Are there many suits pending against UMTA?

Mr. THOMAS. I would again defer to Mrs. Connor on that. From the Department of HEW, as you know, Mr. Chairman, we are sued quite frequently for a number of things.

Senator RANDOLPH. And sometimes with cause.

Mr. THOMAS. As far as UMTA is concerned we could submit that for the record.

MRS. CONNOR. I am not aware of any pending but I would be happy to submit it for the record if you are interested.

Senator RANDOLPH. Now, what are the number of hours which any one of you gives to Board activities?

Mr. THOMAS. Perhaps my situation is somewhat typical of the other members of the Board, Mr. Chairman, in the sense that we have had somewhere in the neighborhood, and we would probably like to make this specific for the record, 14 meetings over the last year and a half. Those meetings, as the Board members can attest, are fairly lengthy and the preparation that goes into them by the Board member and his or her staff are fairly substantial. So I do not know how we could break it down into hours and days, but since the matters that have come before the Board s attention have involved substantive issues about procedures, systems, legislation, and policy matters, the preparation for any meeting is a substantial investment of time. And I might take this opportunity to say, Senator, people in respective agencies people like Mr. Vaughn, Deputy Director of the Veterans' Administration, for example, who have consistent and very substantial responsibilities, participate in the Board meetings regularly which has been something particularly pleasing to me as chairman of the Board. So I cannot give you a man- or person-year figure but it is a substantial investment of time.

Senator RANDOLPH. Senator Stafford, because of our time limitation. I think we should ask a series of questions in writing and give an opportunity to all Board members to answer those questions. Would it be agreeable with you that we provide the questions and then request responses from many members of the Board who would like to reply to them?

Mr. THOMAS. We would be glad to reply to the questions you submit, Mr. Chairman.

Senator RANDOLPH. I am concerned about the relationship of the members of the Board. I realize a person is a part of where he works. You cannot, you know, divorce yourself from something that is a part of you. When people say that you have an overriding interest for the public, yes. But you interpret that interest always in reference to your own background and experience. It is very difficult to be an objective and impartial member of the Board and be totally committed to the Board's objectives while representing agencies which perhaps are not interested in the Board's activities. I am not saying you are biased, but what do you bring to the Board that is your thinking? That is what I am trying to say.

Mr. THOMAS. I see.

Senator RANDOLPH. I think the answers to this question will help the members of the subcommittee.

Do you have anything else?

Senator STAFFORD. Mr. Chairman, we have a few more questions but we would like to submit them in writing for a response by the members of the Board and that will save the Board's time and keep us closer to our schedule for the morning.

Mr. THOMAS. We would be delighted to reply, Senator Stafford.

Senator RANDOLPH. Thank you very much. Mr. Thomas.

On behalf of our committee we want to thank all of you because we know you have in some instances adjusted your schedules to be here.

Mr. THOMAS. Thank you.

[The following information was subsequently supplied for the record:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[illegible]

The Honorable Jennings Randolph
United States Senate
Washington, D. C. 20510

Dear Senator Randolph:

The enclosed materials are transmitted in response to your letter of February 6, 1976, which presented a number of questions in relation to the forthcoming oversight and program review hearings of the Senate Subcommittee on the Handicapped.

I will be glad to discuss further with you any of these questions at the Subcommittee hearings on February 26.

/s/Stanley B. Thomas Jr

Stanley B. Thomas, Jr.
Chairman

Enclosures

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Question 1: This committee established the Board as an independent governmental enforcement unit. What will you do to ensure the independence of the Board?

Answer 1: The A&TBCB functions as an independent agency under my leadership. I feel that the Board and its staff have been evolving from its embryonic organizational phase into a substantive independent policy making body consistent with the congressional direction. Board staff are developing Board positions and procedures, separate and apart from those of any member agency. I plan to continue to ensure the Board's independence by furnishing such guidance and support to Board members and staff as necessary for continued and improved effectiveness of the A&TBCB.

Question 2: The Board has the potential for making great strides in eliminating barriers to mobility and access for millions of handicapped individuals. Congress authorized $1 million for each of the first two years and $1.5 million for FY 1976. The budget request for each of these years has been only $300,000. What was the HEW submission to OMB for each of these years?

Answer 2: In FY 1975, the initial year of Board operations, there was no separate budget request made for OMB for A&TBCB. Funding came from the transfer of funds to the Board by member agencies. In 1976, the budget request for A&TBCB was included in that of the Office of Human Development of DHEW. Approximately $300,000 in program funds and $200,000 in salaries and expenses was provided to the Board.

Question 3: Staffing for the Board until recently has been limited to one professional and one clerical position. This is barely a token effort. What are your views on appropriate expansion of the Board's activities over the next three years, including recommended personnel levels as well as appropriations?

Answer 3: The current level of staffing is 7 professional and 4 clerical persons. In addition to those persons who work directly on A&TBCB staff, all member agencies have staff assigned within their respective agencies to support compliance activities. The Board has not made any projections for expansion of staff over the next three years.

Question 4: What is RSA doing to reduce the problems that communication barriers universally pose for deaf and severely hearing impaired people, for blind and visually handicapped?

Answer 4: Deaf and Severely Hearing Impaired

RSA is now planning for a task force to work on the immense and complex problems relating to the circumstances of the severely hearing impaired and deaf populations in our socio-economic milieu in which communication by sound is dominant. Definition of communication barriers is an apparent first goal, to be followed by identification of alternatives that will reduce or eliminate the barriers, and finally by proposals for implementation of the alternatives. The concept of communication barriers is so multi-faceted and so pervasive, affecting most life situations, that it is not now possible to determine that specific authorization from the Congress beyond the existing architectural, transportation and attitudinal barriers authority may be desirable. We hope to have more specific and focused information a year from now.

Blind and Visually Handicapped

The major communication barrier for the blind and severely visually impaired is reading. Until recently this was accompanied entirely through the use of braille and recorded materials, both on disc and tapes

This analysis examined the legislative requirements of the Board and translated these into a series of goals, objectives, and tasks in increasing orders of detail. Following this process from the seventh order through the fourth order, a concrete and validated manpower requirement could be established. (In attachment, Part II, orders 7 and 6 are reproduced in full, while only excerpts of orders 5 and 4 are provided). The result of this detailed study revealed that a minimum 43.5 man years are necessary to develop actions necessary to accomplish the legislated requirements of the Board. In addition, this reflects the resources essential for establishing the kind of interdepartmental interface necessary to coordinate within the Federal establishment the broad variety of concerns addressed by the Board staff.

Question 4: What is RSA doing to reduce the problems that communication barriers universally pose for deaf and severely hearing impaired people? for blind and visually handicapped?

Answer 4: (Furnished to the A&TBCB by the Rehabilitation Services Administration and the Office of Handicapped Individuals).

Deaf and Severely Hearing Impaired

RSA is now planning for a task force to work on the immense and complex problems relating to the circumstances of the severely hearing impaired and deaf populations in our socioeconomic milieu in which communication by sound is dominant. Definition of communication barriers is an apparent first goal, to be followed by identification of alternatives that will reduce or eliminate the barriers, and finally by proposals for implementation of the alternatives. The concept of communication barriers is so multi-faceted and so pervasive, affecting most life situations, that it is not now possible to determine that specific authorization from the Congress beyond the existing architectural, transportation and attitudinal barriers authority may be desirable We hope to have more specific and focused information a year from now.

Blind and Visually Handicapped

The major communication barrier for the blind and severely visually impaired is reading. Until recently, this was accompanied entirely through the use of braille and recorded materials, both on disc and tapes.

No. 14-P-55016, Development and Demonstration of Communication Systems for the Blind and Visually Impaired, is a project conducted by MIT and sponsored by RSA. It made possible the embossing of braille directly from a computer, thus speeding up the production of braille and potentially vastly increasing the volume of such material.

Project No. 14-P-57796, Compressed Speech and the Blind, also sponsored by the RSA developed a device for compressing speech reproduced on a tape recorder so that a blind reader listening to the tape could increase his reading speed from an average of 150 words to 400 words per minute.

Project No. 14-P-55285/9, TV Systems which Aid the Visually Handicapped, conducted by Rand Corporation and sponsored by RSA produced a closed circuit television system which is now commercially available throughout the country. This device has enabled persons with extremely limited vision (as low as20/200) to read directly from the printed page which is projected on a television screen and moved on a X-Y Table to suit the visually impaired reader.

A project which was conducted by the Stanford Research Institute and sponsored by RSA, developed the Optacon, a portable device which coupled with a miniature video camera produces tactile images of letters viewed by the camera as it is drawn over the printed line on a paper or book. Although this instrument has limitations with respect to speed because the blind person must read one letter at a time, it is the first print-to-tactile device ever produced, and it is now being manufactured and distributed throughout the country by the Telesensory Corporation.

Finally, RSA in conjunction with the Bureau of Education for the Handicapped, Office of Education, is currently preparing to sponsor a project by the Kurzweil Company to test several prototypes of devices that will read print and reproduce it simultaneously by electronic voice.

The Votrex developed by the FEDERAL SCREW, Inc. has been adapted to read, through the spoken word, information from a computer bank thus enabling blind persons to successfully conduct special information service, job for the Civil Service Commission in an RSA pilot project now being conducted at the Arkansas Enterprises for the Blind.

Other training projects sponsored by RSA for employment of tax payer service representatives and Social Security Information Specialists use end line terminals which produce information from the computer instantaneously into readable braille.

HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN

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EDWARD M. KENNEDY, MASS.
GAYLORD NELSON, WIS.
WALTER F. MONDALE, MINN.
THOMAS F. EAGLETON, MO.
ALAN CRANSTON, CALIF.
WILLIAM D. HATHAWAY, MAINE

JACOB K. JAVITS, N.Y.
RICHARD S. SCHWEIKER, PA.
ROBERT TAFT, JR., OHIO
J. GLENN BEALL, JR., MD.
ROBERT T. STAFFORD, VT.
PAUL LAXALT, NEV.

DONALD ELISBURG, GENERAL COUNSEL
MARJORIE M. WHITTAKER, CHIEF CLERK

United States Senate
COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

February 6, 1976

Stanley B. Thomas, Jr.
Chairman
Architectural and Transportation Barriers
  Compliance Board
Mary E. Switzer Memorial Building
Room 1004
Washington, D.C. 20201

Dear Mr. Chairman:

As you know, the Senate Subcommittee on the Handicapped intends to hold oversight and program review hearings with respect to the Rehabilitation Act of 1973, as amended. Hearings are tentatively scheduled to begin on February 19, 1976.

One of the areas to be reviewed during the course of these hearings is the operation of the Architectural and Transportation Barriers Compliance Board. I would anticipate that you and the other members of the Board, as well as the Executive Director, will be called upon to present testimony.

In order to expedite the hearing process, I am herewith submitting to you a number of questions for which the Subcommittee would appreciate full and detailed responses at the earliest practicable time, but in no event later than February 19, 1976.

In addition, please be prepared to file a written statement two days prior to the date to be scheduled for your appearance. You and other members of the Board should anticipate further questions during the hearing. You will be notified of the hearing schedule as soon as it is established.

With best wishes, and with thanks for your cooperation, I am

Truly,

Jennings Randolph

Jennings Randolph
Chairman
Subcommittee on the Handicapped

MAR 16 1976

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

MAR 15 1976

Received
Date 3/16/76
Subcommittee on
The Handicapped

The Honorable Jennings Randolph
Chairman
Subcommittee on the Handicapped
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The enclosed set of documents contains answers to the questions on administration of the Rehabilitation Act of 1973 transmitted with your letter of February 6, 1976.

I appreciated your forwarding all of the Committee's questions, including those which you have directed to the Secretary of Labor, the Chairman of the Civil Service Commission and the Chairman of the Architectural and Transportation Barriers Compliance Board. It is my understanding that you will be receiving a direct reply from them to those questions which apply to sections of the Rehabilitation Act for which they have administrative responsibility.

The Department's responses to your questions are enclosed. In some cases, where answers could not be fully researched in the time requested, we have provided a general response which can be elaborated on by seeking additional information from the States, if the Committee decides that a fuller reply is necessary. You should note, as mentioned in the attached responses, that my office has not yet had an opportunity to review draft regulations for implementing Section 504 of P.L. 93-112.

We have appreciated the opportunity to outline for your Committee the detail of the Department's record in implementing the Rehabilitation Act of 1973, as amended. This should supplement our earlier annual reports on activities under the Act.

Please let me know if you need additional information or explanation of any of the material provided.

Sincerely,

David Mathews
Secretary

Enclosure

NONDISCRIMINATION IN FEDERAL PROGRAMS
(SECTION 504)

REGULATIONS

1. It has been two years and five months since the enactment of P.L. 93-112 and the effective date of section 504 to prohibit discrimination against handicapped individuals under Federal programs and a year since the changed definition went into effect. We understand that the regulations for implementing section 504 have again been installed somewhere in the Department. Please explain the reasons for the unconscionable delay.

ANSWER:

The process of preparing the proposed regulation for section 504 has been time-consuming for a number of reasons. The issues inherent in discrimination on the basis of handicap are new and complex. While different treatment on the basis of race is almost always invidious, there are instances where different treatment of individuals on the basis of handicap is not discriminatory, e.g., the failure to hire a blind person as a bus driver. The problem of determining the scope and nature of what constitutes discrimination against handicapped persons has been made more difficult by the sparseness of legislative history for section 504. As with Title IX of the Education Amendments of 1972, the Congress has enacted a broad civil rights statute with little legislative definition on how the legislation should be implemented. In effect, many of the issues which the staff of the Office for Civil Rights has been considering could have been resolved by the Congress in the process of enacting section 504. Perhaps most important, the definition of handicapped person has been the subject of much discussion. Only recently was the statutory definition changed so as to include persons who cannot benefit from vocational rehabilitation services. Within the present definition the "regarded as" subsection creates a serious problem of interpretation for the Department. For example, it has been suggested that homosexuals would be included under that provision. Finally, much of the delay in publishing the proposed regulation for section 504 has been caused by the Department's attempts to meet the requirements of Executive Order 11821, under which the inflationary and economic impacts of proposals for the promulgation of regulations must be carefully evaluated.

2. When may we expect these regulations?

Answer:

A proposed regulation will be sent to the Secretary for review in March. Upon completion of this review, these regulations will be published in proposed form. We expect that these proposed regulations will be given a 90 day public comment period.

3. Does the President intend to issue an Executive Order regarding the implementation of section 504?

   a) If so, what will that order require and will it establish a single Federal agency to oversee other agencies?

      -- which agency?

      -- what powers will it have?

b) If not, why not? How can there be execution of section 504 without an Executive Order?

Answer:

A draft executive order regarding the implementation of Section 504 has been circulated within the executive branch and has been given the close attention of this Department. However, we do not know whether the President will issue such an order or, if so, when. Nor can we be positive as to what provisions it will contain. We do know that both this Department and the Justice Department have been considered for the role of coordinating agency. The designated agency may be given the authority to issue general government-wide standards to determine whether each agency's implementing regulation conforms to such standards. We do not anticipate that the lead agency will be given government-wide enforcing authority. In the meantime, each Department can enforce section 504 without an Executive Order.

4. Section 504 was effective on dated of enactment, and an individual has a right to enforce his rights under this law. Could you describe the procedures the Department has been using to deal with complaints filed with HEW programs? With other agency programs?

Answer:

HEW is accepting and investigating written complaints from individuals, including those referred from other agencies, concerning alleged violations of section 504 by recipients of assistance from this Department. We do not have the authority to review complaints against recipients of assistance from other departments and have routinely referred such complaints to the agency under whose jurisdiction the complaints come.

5. Are these procedures the same as procedures being utilized to carry out the provisions of title VI of the Civil Rights Act and title IX of the Education Amendments of 1972? If not, why not?

   a) Will the Department establish a program which assures the right of each handicapped citizen to have his or her complaint under section 504 investigated and heard?

   b) If so, how will such a right be provided for? Through HEW investigation and review?

   c) What are your plans to assure review of complaints?

   d) Does your Department need more resources to assure that citizens' complaints under all civil rights laws get a prompt and fair hearing?

   Answer:

   The procedures which the Office for Civil Rights is using to resolve complaints under section 504 are presently somewhat different from the procedures used under Title VI and Title IX. Under section 504, the complaint procedure is centralized and complaint reviews are controlled by the Washington Office. The complaints will be handled centrally until the regulation is published in final form so as to ensure uniformity of policy and enforcement. After publication of final regulation, 504 complaint procedures will be the same as those used to carry out the provisions of title VI and title IX. Unless the volume or complexity of complaints increases significantly, we anticipate that the staffing provided for the fiscal year 1976 budget plus staff requested in the fiscal year 1977 budget will be adequate to handle 504 complaints within a reasonable period of time. As you may know, the Department is presently considering the manner in which it will respond to complaints of discrimination. A proposed consolidated procedural regulation applicable to all civil statutes administered by HEW was published for comment in June, 1975. Considerable objection was raised to some of its provisions, and a new proposal is currently under study.

COMPLAINTS

1. How many complaints have thus far been received by the Department under section 504? What is the status of these complaints? What was the substantive charge of these complaints? What has been the average lapsed time from complaint to completion? What has been the average staff time involved per complaint?

   - How many were determined to be valid complaints?
   - How many were decided in favor of the complainant?
   - How many were decided in favor of the defendant?
   - How many are still pending investigation? How many are still pending decision?
   - What has the Department required in those complaints where the finding was in favor of the complainant?

Please provide information in terms of the fiscal year in which the complaints were received.

Answer:

(a) A total of 67 complaints was received between July 1, 1974 and December 31, 1975. 64 of the complaints were received in 1975.

(b) Of the total of 67 complaints received, 11 were referred elsewhere, and 31 were still pending as of December 31, 1975.

(c) The substantive allegations of the complaints we have received fall into two broad categories:

1. Failure of an educational institution or system either to meet the special needs of the physically handicapped persons or to provide adequate or flexible educational opportunities for the learning disabled.
2. Failure of an employer to accommodate to the needs of physically handicapped persons; discrimination in hiring, firing or advancement because of handicap.

(d) The average lapsed time from receipt to completion of complaints has been about seven months. Limited resources have been the primary cause of delay.

(e) We have not kept staff utilization records to date and therefore we do not know what the average staff time is per complaint.

(f) 41 have been determined to be valid complaints.

(g) Three have been decided in favor of the complainant.

(h) Three have been decided in favor of the defendant.

(In addition, another four have been settled to the satisfaction of both the complainant and the defendant.)

(i) There are 26 complaints whose investigation is not yet completed and 5 still pending decision.

OTHER

1. What procedures has the Department undertaken to publicize the existence of section 504, the rights of handicapped individuals under this section and the responsibilities of those who are receipt of Federal funds?

   - Has the Department provided detailed information to: Chief State School Officers, school superintendents, presidents of colleges and universities, and other State agencies? Please provide copies of the information sent out in each case.

Answer:

Officials of the Office for Civil Rights have participated in numerous workshops and conferences both with recipients of funds from HEW and with consumer groups where oral presentations concerning section 504 have been made. For example, the Department participated in a White House sponsored symposium on employment of handicapped persons under sections 503 and 504 in August 1975. In addition, the Department published a proposed "Consolidated Procedural Rules for Administration and Enforcement of Certain Civil Rights Laws and Authorities," which detailed procedures applicable to enforcement of section 504. This proposed regulation was sent to thousands of recipients of funds administered by this Department. In addition, the Department is presently planning to conduct workshops and other conferences to explain and publicize the regulation soon after its publication in proposed form. Upon publication in the Federal Register, copies of the proposed regulation will be sent to Chief State School Officers, school superintendents, presidents of colleges and universities, and State health and welfare agencies.

2. How does the Department plan to work with other HEW agencies which administer programs which affect handicapped individuals? For example, under the Emergency School Aid Act, the Office of Civil Rights has taken the responsibility to check out assurances required of grantees in order to determine if such grantees are eligible for Federal assistance.

With regard to section 504, would you expect to undertake similar roles with regard to the Rehabilitation Act, the Head Start program, the Education of the Handicapped program, Supplemental Security Income program, and health services program?

Answer:

Because of the overlap in coverage of educational programs between Section 504 and the Education of the Handicapped Act, OCR has been working closely with the Department's Bureau for the Education of the Handicapped (BEH); we expect to continue to do so. Similarly, as the opportunity arises, we would expect to work closely with other HEW agencies that administer programs affecting handicapped individuals. Specifically, however, OCR has been delegated enforcement authority under the Emergency School Act from the Office of Education. No such delegations have been made concerning the other statutes you mention.

3. How many staff are currently employed and work on a full-time basis on section 504 in central office? In the Regions? How many on a part-time basis (and please specify what percentage of time is pent on 504) if part-time? What are the functions and duties of these personnel? How many are disabled?

Answer:

As of February 13, 1976, there were ten employees working on 504 on a full-time basis plus one working on a part-time basis. There was no one working full time on section 504 in the regions; regional 504 work performed by persons working part-time on section 504 averaged about two person years during the past year. The duties of the employees include research and writing of the regulation, preparing survey, handling of correspondence, planning, budget requests, management and supervision, attending workshops related to handicapped persons, and investigation and settlement of complaints. Twenty percent of the full-time staff members are handicapped employees.

4. The Committee understands that the Office of Civil Rights is currently undergoing a policy review and is contemplating a reorganization in order to improve its efficiency. How specifically do you expect this reorganization and policy review to effect section 504 implementation?

Answer:

The purpose of the proposed OCR reorganization is to increase the efficiency and effectiveness of the Office for Civil Rights, especially in view of the Office's enlarged enforcement responsibilities in recent years. It is expected that the proposed OCR reorganization will strengthen the Office's capability to implement section 504. Under the reorganization, the expertise of present personnel who have knowledge of investigative procedures and of recipient institutions will be blended with that of personnel with knowledge concerning handicapped individuals in a functional structural framework.

5. We understand that there are a proposed 150 positions in the Fiscal Year 1977 budget for the Office of Civil Rights. How many will be used for section 504 program? Are these in addition to current staff. How would they be distributed in functional areas?

Answer:

A total of 50 new positions in OCR's Fiscal Year 1977 budget has been requested for the 504 program. This is in addition to the 10 programmed during FY 1975, and 40 from the FY 76 budget. About 60% of the staff would be used in the elementary and secondary school area, about 30% in the higher education area, and 10% in the other areas covered by OCR.

6. In order to assure that the Federal Government has a coordinated civil rights policy with respect to handicapped individuals, what specific actions have been undertaken by the Departmet to coordinate its responsibilities under section 504 with the Labor Department's responsibilities under section 503? With the Civil Service Commission under section 501? Do you consider these actions adequate?

Answer:

We have met with members of the staff of the Department of Labor frequently in order to make the 503 and 504 regulations as consistent as possible in the employment area. In addition, there have been numerous staff level discussions on individual complaints and on the ramifications of policy decisions concerning certain issues. We believe these discussions to date have improved the overall effectiveness of both regulations. The contacts between this Department and the Department of Labor have been adequate to ensure a consistent approach to the Rehabilitation Act of 1973. When the HEW regulation is published in final form, there will be a need to continue and expand these contacts to ensure that the enforcement of the two regulations in the employment area continues to be consistent. Liaison has been established with the Civil Service Commission to discuss mutual problems of concern.

7. What specific actions have been undertaken by the Department to coordinate its responsibilities under section 504 with other agencies of the government such the Department of Transportation (with regard to architectural barriers), the Department of Housing and Urban Development (with regard to architectural barriers and open and accessible housing), the Office of Education, etc?

Answer:

OCR staff members have worked with various representatives of DOT, HUD, and other departments on devising questions on handicapped individuals for the 1980 census. There have been frequent discussions between OCR and the Office of Education concerning such matters of mututal concern as the 504 regulation and Project Find, and between OCR and the Architectural and Transportation Barriers Compliance Board established under section 502 of the Act.

8. Section 504, Nondiscrimination Under Federal Grants, has special pertinence to deaf people who are more readily subject to discrimination due to their communication handicap. The Committee would like to know what measures RSA is taking to prevent discrimination against deaf people at any program or activity receiving Federal funds.

Answer:

RSA has brought the substance and implications of Section 504 to the specific attention of the Coordinators for the Deaf in the State Vocational Rehabilitation agencies, the Federal Regional staff carrying special responsibilities in the deaf area, the voluntary and professional organizations working with deaf people, and these and other grantees. A comprehensive base of awareness has thus been established. Awareness is considered to be the fundamental for observance of the spirit and letter of the law.

ADMINISTRATION GROUP
Washington, DC 20260

March 16, 1976

Honorable Jennings Randolph
Chairman, Subcommittee on the
Handicapped
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Senator:

During the course of testimony February 26, 1976, by members of the Architectural and Transportation Barriers Board before the Senate Subcommittee on the Handicapped, I was asked to give a typical example of agency response to a complaint regarding accessibility by the physically handicapped. My response, as you may recall, was to cite the post office at Soldotna, Alaska where a ramp is to be installed during the next construction season.

While this example is typical for the Postal Service, a further understanding of procedures may be obtained by a look at the record for the last four months. Therefore, a listing is attached which records complaints of inaccessible postal buildings resolved through Postal Headquarters action of this period. Please understand that all of these facilities except the Alaska projects and Newark, Delaware predate the Architectural Barriers Act of 1968 (PL 90-480).

Sincerely,

A. C. Maevis
Assistant Postmaster General
Real Estate and Buildings Department

Received
Date
Subcommittee on
The Handicapped

LIST OF COMPLAINTS OF POSTAL FACILITIES INACCESSIBLE TO THE PHYSICALLY HANDICAPPED RECEIVED BY USPS HEADQUARTERS, WASHINGTON, D. C. AND RESOLVED BETWEEN NOVEMBER 1, 1975 AND FEBRUARY 29, 1976.

1. Facility: U. S. Post Office, Prattville, Alabama

Complaint: October 7, 1974, Main entrance inaccessible due to steps. Complaint forwarded by A&TBCB.

Resolution: December 23, 1974, Building was constructed in the 1930's and does not fall under the Barriers Act. However, an alternate existing means of entry was found which complied with ANSI 117.1 standards.

As of January 30, 1976, new direct entrance ramp was designed and is under construction for completion February 10, 1976.

2. Facility: U. S. Post Offices Soldotna, Valdez, Homer, Glennallen and Barrow, Alaska

Complaint: November 6, 1975, Inaccessible facility. Complaint forwarded to USPS by Honorable Ted Stevens, U. S. Senate.

Resolution: January 22, 1976, A low incline ramp is to be provided during the next construction season. Similar ramps will be built at the Valdez, Homer and Glennallen Post Offices but not at Barrow due to severe weather and unusual soil conditions which make ramps impracticable.

3. Facility: U. S. Post Office, Newark, Delaware

Complaint: January 11, 1975, Cars park in front of curb cuts otherwise building is completely accessible. Complaint forwarded from A&TBCB.

Resolution: January 21, 1975, New facility open one month. Temporary parking signs will be installed until permanent signs, on order, are installed by the contractor.

4. Facility: U. S. Post Office, Marquette, Michigan

Complaint: March 19, 1975 - Inaccessible facility complaint forwarded by A&TBCB.

Resolution: December 22, 1975, A ramp is being installed in this Facility, occupied in 1937, to permit access to the postal lobby by elevator. Construction to begin in April 1976.

5. Facility: City Post Office Arcadia, California

Complaint: September 10, 1975, Facility inaccessible by wheelchair. Citizen complaint was forwarded by Honorable J. H. Roussolet M.C. 26th CA. to GSA and in turn transmitted to USPS.

Resolution: December 15, 1975, Complainant was advised by letter of the location of a wheelchair ramp which had been added ten years previous.

6. Facility: U. S. Post Office Brewster, New York

Complaint: October 17, 1975, Facility inaccessible by wheelchair. Complaint from the Southeast Advisory Board on the Handicapped, Brewster, New York and forwarded by GSA to USPS.

Resolution: November 26, 1975, USPS prepared designs and estimates for a ramp which would provide the necessary access for this facility leased in 1968. To gain access it is necessary to encroach on the public sidewalk as was pointed out in the complainant's letter. On February 26, 1976, the Town of Brewster, New York rejected USPS applications for the necessary ramp encroachment. No further action is currently pending.

7. Facility: Tallahassee, Florida. All Postal Stations

Complaint: November 5, 1976, "Disabled Citizens for Action" letter to Postmaster General advised that three stations in Tallahassee are inaccessible to wheelchair confined persons.

Resolution: November 21, 1975, USPS advised complainant that the Main Post Office which was constructed and occupied in 1972 is in full compliance. The three stations, however, were constructed prior to 1968 and do not fall under the 1968 Barriers Act. The possibility of bringing one of these facilities into compliance was being investigated at Regional level.

8. Facility: U. S. Post Office Columbia University Station, New York, New York

Complaint: October 11, 1975, Inaccessible facility complaint forwarded by A&TBCB.

Resolution: November 8, 1975, A ramp was installed at the time of other alterations and improvements to this leased facility over fifty years old.

APR 19 1976

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
WASHINGTON, D.C. 20201

APR 15 1976

The Honorable Jennings Randolph
Chairman
Subcommittee on the Handicapped
United States Senate
Washington, D. C. 20510

Dear Senator Randolph:

The enclosed materials are submitted in response to your letter of March 3, transmitting additional questions in connection with the Architectural and Transportation Barriers Compliance Board Oversight Hearings held by the Subcommittee on the Handicapped. The responses from the members of the A&TBCB to your inquiries are included.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Stanley B. Thomas, Jr.
Chairman

Enclosures

Responses to questions to Stanley B. Thomas, Jr., Chairman, Architectural and Transportation Barriers Compliance Board

1. Q. We understand that a study has been conducted by the Department of HEW which examines the manpower or staffing needs of the Board to carry out the activities mandated by section 502 of the Rehabilitation Act. Please supply a copy of this study.

   A. A copy of the study is enclosed per your request.

2. Q. In relation to the study mentioned above, together with (a) any additional workload not contemplated at the time the study was made, and (b) in recognition of the failure of executive agencies to provide technical and other assistance pursuant to section 502(f), what level of funding would the Board require to carry out the activities mandated by section 502?

   A. No additional workload not contemplated at the time the study was made is now planned nor has there been any deletion in the workload included in the study. Regarding the inquiry pertaining to the technical and other assistance furnished pursuant to section 502(f), it should be noted that significant assistance has been provided by agency liaison staff.

   A&TBCB staff estimates a need of $1.5 million. I have not reviewed their analysis and cannot, therefore, attest to its veracity. Nor has this estimate been reviewed and approved by the full board.

3. Q. Can you provide estimates, broken down by executive agency, of the total number of buildings covered by Public Law 90-480 which should be accessible to handicapped individuals?

   A. We are unable to ascertain with certainty the total number of buildings. However, we have received the following input from members' agencies in terms of coverage.

Department of Health, Education, and Welfare	7,247
Department of Housing and Urban Development	55,486 housing units
Department of Labor	588
Department of Interior	See GSA
General Services Administration	14,464

Veterans Administration	--
United States Postal Service	3,500
Department of Transportation	3,000
Department of Defense	less than 30,000

4.(a) Q. How many compliance officers are currently assigned to Board?

A. There is currently one compliance officer employed full time by the Board. His efforts are supplemented by agency liaison staff in all the member agencies. These agency liaison persons have facilitated the amicable resolution of many of the complaints to date.

(b) Q. How many hearing officers or administrative law judges?

A. While there are currently no hearing officers or administrative law judges employed by the Board, the Board has available to it, through the United States Civil Service Commission, administrative law judges on a reimbursable basis in accordance with 5 CFR 334. The General Counsel of the Board and the Director of the Office of Administrative Law Judges, United States Civil Service Commission, have discussed this matter and an arrangement has been effected whereby the Board will notify the Civil Service Commission as soon as it contemplates initiation of compliance proceedings. The Civil Service Commission will designate an administrative law judge to preside over such actions.

At such time as the frequency of formal compliance proceedings will justify additional staff positions, the Board will develop a position description for its own administrative law judge. It is the understanding of the Board, through its General Counsel, that the use of administrative law judges, on a reimbursable basis, through the Civil Service Commission, is standard operating practice for new agencies.

(c) Q. How many individuals on the Board staff are fully competent to evaluate building designs and plans for accessibility?

A. In order to gain an understanding of staffing allotment, it is important to review the total legislative mandate of the Board. In this regard, the A&TBCB is authorized to perform several major activities, including ensuring compliance with the standards issued under the Architectural Barriers Act, P.L. 90-480, as amended; investigating and examining alternative approaches to architectural, transportation, and attitudinal barriers confronting handicapped individuals; determining what measures are being taken by Federal, State and local governments to eliminate such barriers; promoting the use of the International Accessibility Symbol in all compliance facilities; and making appropriate reports, including legislative and administrative recommendations to the President and Congress. The Board is also authorized to determine how architectural and transportation barriers impede the mobility of handicapped individuals and aged handicapped individuals and consider ways in which travel expenses in connection with transportation to and from work for handicapped individuals can be met or subsidized when such individuals are unable to use mass transit systems; the A&TBCB is also authorized to consider the housing needs of handicapped individuals. The Board is also charged with determining what measures are being taken, especially by public and other nonprofit agencies and groups having interest and capacity to deal with such problems to eliminate transportation barriers from public transportation systems, and to prevent their incorporation in new or expanded transportation systems and to make housing available and accessible to handicapped individuals. The Board is also charged with preparing plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for handicapped individuals.

It is in the context of these legislative mandates, contained in sections 502(b) & (c) that the Board staffing has begun to evolve. Staffing of Board has been in relation to the functional areas enumerated in the legislation. Thus, the Executive Director provides guidance for a Director of Research and Planning, a Director of Public Information, a Director of Compliance, and General Counsel. There are a total of 13 positions available to the Board, nine professional and four support staff. It should be noted that all staff are highly sensitive to the issue of accessibility and dedicated to the elimination of architectural barriers. In fact, of the 12 persons currently employed, 4 are wheelchair users. In addition, 3 handicapped individuals serve as consultants to the Board. Thus, the Board staff is personally as well as professionally sensitive to the issue of accessibility. Moreover, the issue of accessibility is not so specialized that formal training in the engineering or architectural discipline is the exclusive prerequisite to the acquisition of expertise.

The Director of Compliance has for many years been involved in the design and construction of public buildings. His expertise in construction as well as an active consumer is a resource to outside parties. The General Counsel of the Board has significant experience pertinent to the procurement and administration of Government construction projects. He has served as counsel in administrative hearings involving Federal construction projects and has been affiliated on a part-time basis with the U.S. Department of Agriculture Graduate School in connection with a Government construction contract course. The Executive Director and the Director of Research and Planning have both long been involved in the area of rights and needs of the disabled. Each of their long and meaningful experience enables them to ascertain accessibility of various buildings. The Director of Public Information and the Administrative Officer, who are confined to wheelchairs, have had many confrontations with inaccessible public buildings.

In summary Board staffing has been designed to accomplish the legislative mandates in section 502 of the Rehabilitation Act. Within the limited staffing that has thus far taken place, there is expertise to ascertain accessibility of public buildings.

5. Q. How many man years are necessary to accomplish the legislative requirements of the Board?

A. The Board can meet its legislative requirements within existing resources. However, based on the manpower analysis provided under question 1, with additional manpower the Board could more effectively meet its legislative mandate.

PART I

OVERVIEW OF CONCEPT AND PLANNED APPROACH TO MANPOWER MEASUREMENT IN OHD

The manpower measurement system being developed in OHD is heavily based on the system presented by Dr. Marvin E. Mundel in his book Measuring and Enhancing the Productivity of Service and Government Organizations. A copy of this book should be available on a loan basis from the Regional Planning Office or the Program Office Headquarters person designated as liaison on manpower measurement. The Management Analysis Staff, OAM can arrange to obtain additional copies if needed.

The development of a manpower measurement system in OHD was stimulated in part by insistence from OMB and the Department that future requests for positions in the budget must be based on a complete and much more reliable analysis than has been contained in past justifications. This analysis must account for workload not only for the additional positions requested but also for all positions in the current ceiling, and is therefore referred to as a "zero-based" analysis.

The system was also stimulated in part by the Assistant Secretary's and Program Directors' needs for a more reliable way of predicting manpower requirements for OPS objectives and for allocating manpower among and within the various programs and functions of OHD.

A very much oversimplified statement of the overall concept is as follows: We first develop a complete and non-overlapping list of all the functions and activities or tasks needed to carry out the mission of any program. We then, through one of several means, determine from past experience the average amount of time generally required to perform each of these tasks or activities each time they get performed. If the list is constructed properly, the average times or "standard times" should be relatively stable so that detailed log-keeping would not be necessary on a continuing basis. Also, if the list is properly constructed, any time there is a requirement for some large new effort such as an OPS objective, new legislative mandate or increased appropriation, it should be possible to break that effort down into component activities which correspond to those on our list. These activities should also be such that it would be reasonably easy, from the overall effort to be accomplished, to see how many times or how often each task or activity would need to be performed. From there it should be possible to predict the total person-hours, days, weeks, months or years required to perform the initiative, by multiplying the standard time of each component activity by the number of times it must be performed, and adding all the products together. This is an oversimplified description of the overall system, but it is reasonably accurate as a start.

Obviously, for the list of tasks to lend itself to the process described above, it must be developed in a certain way with certain criteria for how we break down and describe the tasks involved in each function of a program's mission. In order to remind ourselves that this is no simple, ordinary list of tasks or functions, we refer to it as a "Work Unit Structure." Similarly, we do not refer to "tasks" or "functions," but to "Work Units."

Some of the most important criteria for identifying and defining work units and for developing a work unit structure are as follows:

1. Work units are not stated in terms of simple activity but in terms of accomplishment. Ultimately the standard time associated with a work unit should cover all of the activities required to produce a certain complete output defined by the work unit. The major reason why it is so critical to insist on this particular approach to defining work units is the fact that the initiatives (whether OPS or legislative) for which we may wish to predict manpower requirements, are almost always laid on us in terms of some goal to be accomplished. Only by defining our work units in terms of little pieces of "accomplishment," will we be in a position to estimate how many of a particular work unit are likely to be required to achieve a broad objective. In other words, we would have no way of knowing how many additional meetings or telephone calls (activity) are required to administer an additional $2 million dollars in a given program, but we should be able to give a reasonable estimate of the number of new grants (outputs) which could be awarded with that amount of money in a given program.

2. The work units should be sufficiently small in size, scope and standard time, for us to conceptualize and correspond to the typical kinds of small steps which are generally broken out in planning some larger initiative such as an OPS objective or the implementation of some new legislation. Without this characteristic, we could never apply our standard times to the planning tasks we normally set for ourselves in the real world.

3. The most detailed work units, stated in terms of little pieces of accomplishment, must "feed in" very rigorously and plainly to the major goals and mission areas mandated for our programs. To assure that every work unit relates clearly to some accepted portion of a program's mission, we use a somewhat strict technique in developing work units whereby we first state all the broadest independent goals or outputs contained in the mission of each program. Then we break these broad statements down into smaller pieces, all of which must be accomplished in order to achieve the larger goal. These smaller pieces are each broken down in turn, still stating these more detailed work units in terms of small pieces of accomplishment, and the process is repeated as often as necessary in order to achieve a useful level of detail. These successive breakouts give rise to the terminology you will hear regarding "orders" or "levels" of work units. Experience has shown that the process must normally be repeated about four or five times. Arbitrary numerical levels have been assigned with this in mind to permit a standard approach to these "levels" so that when you hear of an "eighth order work unit," you know it is the broadest statement of a program's mission goals or outputs -- regardless of the program -- whereas "fourth order work units" would be very detailed small pieces of accomplishment, all feeding successively into 5th, 6th, 7th, and finally the 8th order work units.

4. At some level in the work unit structure, but usually arbitrarily pegged as the "5th order" work units, the work units must be capable of being counted -- even if there is only one per year. Without this, we would not be able to conceptualize a number of times that a particular work unit would have to be performed to achieve a given larger initiative. Without this, we would have nothing to multiply the standard time by to arrive at projected manpower requirements. In other words, the standard time associated with a 5th order work unit is time required to achieve that particular result each time it is accomplished. What we must then be able to multiply that number by -- the "work count" -- whether known or anticipated, would be a countable number of times that work unit was to be performed or accomplished. Put another way, this means that work units must have recognizable beginning and end points -- they must be discrete, non-overlapping entities of work.

5. Work unit structures must be complete. They must cover all of the sub-goals and activities which OHD staff may or must become involved in to carry out the goals and missions of the office.

Currently we are in the process of developing the work unit structures for OCD, ONAP, AoA, DDO and OM (CETA). RSA, OYD and the exclusively Headquarters programs will follow. However, it is important for everyone who will be impacted by the system to thoroughly understand the work unit structures, how they are arrived at, what activities are encompassed within each work unit, and what will be done next with the work unit structures. Hence, the meetings scheduled with each Regional Office are intended to have two purposes -- first as a general orientation to Regional Program Staff on the concept of the system, and second, to review the latest draft of the work unit structures for each progam in some detail to assure understanding and completeness, and to obtain any final suggestions, additions, clarifications, or other input. RSA and OYD staff will be given opportunity for such input when draft work unit structures have been developed in these areas, but they should participate in the planned sessions so that their later input will be made on the basis of the fullest possible understanding.

After the work unit structures have been finalized, based on both Regional Office and Headquarters program input, a form will be developed which can be used by staff to keep a simple daily record of time spent on each work unit. As presently envisioned, these forms, which will be kept as simple as possible, will be collected in each region weekly and mailed to OAM in Washington for key-punching. These records will be accumulated over 12 months in order to obtain data covering all the cylical work variations in the fiscal year and statistically analyzed to produce standard times. There should be no permanent large scale collection of data after this, on actual time spent by individuals on work untis, although periodic spot checks may be used to assure that the manner of performing work units is not changing over a period of years. The only other records which will be kept will be on work counts by unit -- not by individual. In any case, most or all work counts should be contained in records which are already maintained.

PART II

ANALYSIS OF 7th, 6th, 5th, and 4th ORDER
A&TBCB

7th Order

01 - Compliance with Architectural Barriers Act of 1968 are related legislation assured.

02 - Research in barrier removal conducted and promoted.

03 - Congress and the President advised on the status of accessibility for the handicapped and necessary legislation and policy to increase accessibility.

04 - Professional and specialized audiences advised on methods to improve accessibility.

05 - Non-specialized audiences informed on barrier problems and the mobility needs of the handicapped.

6th Order

01

0101 Compliance plans for Federal agencies developed, reviewed, negotiated, approved, monitored and assisted.

0102 A compliance reporting system established and operated.

0103 Complaints of violations investigated and resolved.

0104 Adequacy of accessibility standards studies and legitimate improvements promulgated.

02

0201 Research projects conducted by grant or contract and utilization of findings promoted.

0202 Research projects by other public and private agencies arranged and utilization of findings promoted.

03

0301 Public hearings planned and conducted to analyze the accessibility needs of the handicapped.

0302 Accessibility data from all sources analyzed and recommendations for needed action reported to the Congress and the President.

04

0401 Technical and professional information communciated to architects, engineers, and other technical designers and developers to improve accessibility in structures and facilities, both covered and not covered by mandatory standards.

0402 Specialized information communicated to state and local governmental organizations to improve accessibility through legislative and administrative actions in facilities both covered and not covered by mandatory standards.

0403 Specialized information communicated to owners, managers and operators of facilities to improve accessibility in those facilities, both dovered and not covered by mandatory standards.

05

0501 Information accessibility commupicated to a non-technical audience.

0502 Accessibility promoted through specialized media by public service ammouncements, posters, etc.

5th Order

01

010101 A plan developed, etc., for single agency funded, owned and occupied facilities.

010102 A plan developed, etc., for single agency funded, leased and occupied facilities.

010103 A plan developed, etc., for single agency funded and owned facilities occupied by another agency or agencies.

010104 A plan developed, etc., for single agency funded and leased facilities occupied by another agency or agencies.

010105 A plan developed, etc. for non-Federally owned facilities funded in whold or in part by Federal grants or loans.

		Standard Times			Work Counts		
A&TBCB		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
01010501	Assistance given in developing a compliance plan for non-Federally owned facilities funded in whole or in part by Federal grants or loans.		.5mm	.5mm		9	9
01010502	A plan reviewed, negotiated and approved.		.75mm	.75mm		9	9
01010503	A plan monitored by other than on-site inspection.		.25mm	.25mm		9	9
01010504	A plan monitored by on-site inspection.		3 days	3 days		9	9
01010505	TA given an agency in executing its plan.		.5mm	.5mm		9	9
01010601	Assistance given in developing a compliance plan for facilities covered under Sections 503 and 504 of the Rehabilitation Act.		.5mm	.5mm		9	9
01010602	A plan reviewed, neogtiated and approved.		.75mm	.75mm		9	9
01010603	A plan monitored by other than on-site inspection.		.25mm	.25mm		9	9
01010604	A plan monitored by on-site inspection.		3 days	3 days		9	9
01010605	TA given an agency in executing its plan.		.5mm	.5mm		9	9

		Standard Times			Work Counts		
ATBCB		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
01020101	General planning and development completed for the entire (centralized) compliance reporting system.		12mm	12mm		1	1
01020102	An agency assisted in adapting and implementing the general compliance reporting system to its situation.		.75mm	.75mm		9	9
01020103	An agency reporting system monitored and assisted.		.5mm	.5mm		9	9
01030101	A complaint about a Federally owned or leased facility received and reviewed.		1/2hr.	1/2hr.		50	50
01030102	Further information obtained and reviewed.		2 days	2 days		50	50
01030103	On-site inspection conducted.		2 days	2 days		15	15
01030104	Fact-finding hearing held.		2 days	2 days		5	5
01030105	Review completed and determination issued.		3 days	3 days		50	50
01030106	Appeal heard and Board ruling issued.		2 days	2 days		1	1
01030301	A complaint about a Federally funded, publicly owned or leased facility received and reviewed.		1/2hr.	1/2hr.		50	50

		Standard Times			Work Counts		
A&TBCB		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
01030302	Further information obtained and reviewed.		2 days	2 days		50	50
01030303	On-site inspection conducted.		2 days	2 days		15	15
01030304	Fact-finding hearing held		2 days	2 days		5	5
01030305	Review completed and determination issued.		3 days	3 days		50	50
01030306	Appeal heard and Board ruling issued.		2 days	2 days		1	1
01030401	A complaint about a facility covered under Sections 503 or 504 received and reviewed.		1/2hr	1/2hr		50	50
01030402	Further information obtained and reviewed.		2 days	2 days		50	50
01030403	On-site inspection conducted.		2 days	2 days		15	15
01030404	Fact-finding hearing held		2 days	2 days		5	5
01030405	Review completed and determination issued.		3 days	3 days		50	50
01030406	Appeal heard and Board ruling issued.		2 days	2 days		1	1

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A&TBCB		Standard Times			Work Counts		
		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
02000001	Research Planning and policy development completed.		3mm	3mm		1	1
02010101	Literature search for an A&TBCB barriers research project completed and specifications developed.		5mm	5mm		5	5
02010102	Project advertised or potential grantees solicited.		2m days	2 m days		5	5
02010103	Proposals reviewed, grantee/contractor selected, grant/contract awarded.		.75mm	.75mm		5	5
02010104	Grant/contract monitored and assisted.		3 wks.	3 wks.		5	5
02010105	Results evaluated and disseminated.		1mm	1mm		5	5
02010201	Literature search completed for a barriers research project directed an another agency.		.5mm	.5mm		20	20
02010202	Negotiations with other agency or conditions of project completed.		4m days	4m days		20	20
02010203	Interagency transfer of funds effected.		1/2day	1/2day		20	20
02010204	Project monitored and assisted.		2 wks.	2 wks.		20	20
02010205	Results evaluated and disseminated.		1mm	1mm		20	20

[illegible]		Standard Times			Work Counts		
		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
01040101	Existing literature on a building standard reviewed and problems identified.		1 wk	1 wk		5	5
01040102	Concerned organizations and experts surveyed about the problems.		2 wks	2 wks		5	5
01040103	Revisions drafted and circulated for comment		3 wks	3 wks		5	5
01040104	Comments analyzed and revisions completed and published.		3 wks	3 wks		5	5
01040201	Existing literature on a transportation standard reviewed and problems identified.		1 wk	1 wk		5	5
01040201	Concerned organizations and experts surveyed about the problems.		2 wks	2 wks		5	5
01040203	Revisions drafted and circulated for comment.		3 wks	3 wks		5	5
01040204	Comments analyzed and revisions completed and published.		3 wks	3 wks		5	5
01040301	Existing literature on an other standard reviewed and problems identified.		1 wk	1 wk		5	5
01040302	Concerned organizations and experts surveyed about the problems.		2 wks	2 wks		5	5

		Standard Times			Work Counts		
		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
A&TBCB							
01040303	Revisions drafted and circulated for comment.		3 wks	3 wks		5	5
01040304	Comments analysed and revisions completed and published.		3 wks	3 wks		5	5
03010101	Issues reviewed, priorities determined, and subjects identified for a public hearing.		2 wks	2 wks		6	6
03010102	A hearing planned and interested organizations and experts solicited for participation, preliminary analysis of commetns and existing literature done.		3mm	3mm		6	6
03010103	A hearing conducted and testimony recorded.		2 m days	2 m days		6	6
03010104	A report of the hearing written and published.		1mm	1mm		6	6
03020101	Written data gathered and analyzed.		1mm	1mm		2	2
03020102	Expert opinion or study solicited.		2 wks	2 wks		2	2
03020103	Recommendations developed and report written, printed and submitted to Congress and the President.		1mm	1mm		2	2
04010101	Planning and literature search on a tecnnical users' issuance completed.		2 wks	2 wks		5	5

A&TBCB		Standard Times			Work Counts		
		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
04010102	Input solicited from interested organizations and experts.		3 wks	3 wks		5	5
04010103	Issuance written, cleared, and published.						
04010201	Subject reviewed with designer, problems identified, and assistance planned.		4 days	4 days		6	6
04010202	Literature search completed and expert opinion obtained.		2 days	2 days		6	6
04010203	Designer advised.		2 days	2 days		6	6
04010301	Presentation for a technical audience developed and cleared.		3 days	3 days		24	24
04010302	Presentation made or informal participation completed.		1 day	1 day		24	24
04020101	Planning and Literature search on a government issuance completed.		2 wks	2 wks		3	3
04020102	Input solicited from interested organizations and experts.		3 wks	3 wks		3	3
04020103	Issuance written, cleared and published.		1mo	1mo		3	3

		Standard Times			Work Counts		
		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
A&TBCB							
04020201	Subject reviewed with government organization, problems identified, and assistance planned.		4 days	4 days		6	6
04020202	Literature search completed and expert opinion obtained.		2 days	2 days		6	6
04020203	Government organization adivsed.		2 days	2 days		6	6
04020301	Presentation for a governmental audience developed and cleared.		3 days	3 days		6	6
04020302	Presentation made or informal participation completed.		1 day.	1 day		6	6
04030101	Planning and literature search completed on an issuance for owners, managers or operators.		2 wks	2 wks		5	5
04030102	Input solicited from interested organizations and experts.		3 wks	3 wks		5	5
04030103	Issuance written, cleared, and published.		1mm	1mm		5	5
04030201	Project reviewed with managers, problems identified and assistance planned.		4 days	4 days		6	6
04030202	Literature search completed and expert opinion obtained.		2 days	2 days		6	6
04030203	Manager advised.		2 days	2 days		6	6

A&TBCB		Standard Times FY 75	Standard Times FY 76	Standard Times FY 77	Work Counts FY 75	Work Counts FY 76	Work Counts FY 77
04030301	Presentation for a managerial audience developed and cleared.		3 days	3 days		6	6
04030302	Presentation made or informal participation completed.		1 day	1 day		6	6
05010101	Planning and literature search on a public information issuance completed.		2 wks	2 wks		10	10
05010102	Input solicited from interested organizations and experts.		3 wks	3 wks		10	10
05010103	Issuance written, cleared, and published.		1 mo	1 mo		10	10
05010201	Presentation for a general audience developed and cleared.		2 days	2 days		12	12
05010202	Presentation made or informal participation completed.		1 day	1 day		12	12
05010301	Planning and literature search on a handicapped information issuance completed.		2 wks	2 wks		10	10
05010302	Input solicited from interested organizations and experts.		3 wks	3 wks		10	10
05010303	Issuance written, cleared, and published.		1 mo	1 mo		10	10

		Standard Times			Work Counts		
ASTBCD		FY 75	FY 76	FY 77	FY 75	FY 76	FY 77
05010401	Presentation for a handicapped audience developed and cleared.		3 days	3 days		24	24
05010402	Presentation made or informal participated completed.		1 day	1 day		24	24
05020101	Planning, literature search and clearance on a public service announcement, poster, etc. completed.		1 day	1 day		6	6
05020102	Agreement established with appropriate media organizations.		2 days	2 days		6	6
05020103	RFP developed, bidding solicited, and contractor selected.		2 wks	2 wks		6	6
05020104	Contract monitored		1 wk	1 wk		6	6
05020105	Item promoted through media contacts.		2 days	2 days		6	6

FY 1977 BUDGET PROJECTIONS

Manpower Projection* . . . . .43.5 man years

Supportive Service Requirements by Object Classification Code (in thousands of dollars)

21.0 Travel and Transportation of Persons	$453
22.0 Transportation of Things for Regionalization	$ 20
23.0 Rent, communications, and utilities	$ 25
24.0 Printing and Reproduction	$208
25.0 Other services	$100
26.0 Supplies and materials	$ 15
31.0 Equipment	$ 15
41.0 Grants and Contracts	$700

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*see attached detail sheet for staffing requirements

FY 1977 TRAVEL JUSTIFICATION

(object classification)

21.0 Travel & Transportation of Persons
a) Travel of Professional permanent staff
$400.00 per trip
33 professionals (3 to 1 ratio)
$ 13,200.00 per trip for 33
24 trips per yr. '77
Subtotal- $316,800.00

b) Travel expenses for members of National Advisory Committee as nominated by Congress
$400.00 per trip
13 members
$ 5,200.00 per trip for 13
10 mtgs. per yr. '77
Subtotal- $ 52,000.00

c) Travel expenses for witnesses at A&TBCB Nat'l Public Hearings
$400.00 per trip
25 avg. witnesses at ea. hearing
$ 10,000.00
6 hearihgs per yr. '77
Subtotal- $60,000.00

d) Travel expenses for hearings examiners and witnesses at A&TBCB hearings on Compliance
$400.00 per trip
3 avg. examiners/witnesses
$ 1,200.00
4 compliance hearings per yr. '77
Subtotal- $ 4,800.00

e) Travel expenses for consultants/experts of A&TBCB
$400.00 per trip
5 consultants/experts
$ 2,000.00 per trip/5 consultants/experts
10 trips per yr. '77
Subtotal- $ 20,000.00

21.0...............$453,600.00

FY '77 RENT JUSTIFICATION

Rent - 23.0

A) Based upon the regionalization of 1 professional in compliance for each region:

Rent Avg. $9.00 per sq. ft.

200 sq. ft per person
$18,000.00
2,000.00 utilities, etc.
Subtotal- $20,000.00

B) Rental space for public hearings
$ 500.00 per hearing
6 hearings
Subtotal- $ 3,000.00

C) Rental space for compliance hearings
$ 500.00 per hearing
4 hearings
Subtotal- 2,000.00

23.0 total....................$25,000.00

FY 1977 PRINTING JUSTIFICATION

A) Public notification sys/and preparation printing for public hearings
$ 1,000.00 ea. hearing
6 hearings
Subtotal- $6,000.00

B) Certified reporting of proceedings of compliance & public hearings
$ 1,500.00 ea. hearing
10 hearings
Subtotal $15,000.00

C) Printing of hearing (public) report
$ 5,000.00 each (1,000 cc)
6 hearings (public only)
Subtotal $30,000.00

D) Annual report to Congress
$ 7,000.00 (3,000 cc)
1 report
Subtotal- $ 7,000.00

E) Special reports re findings of grants/contracting activity ...
$50,000.00

F) PIO activities ... $50,000.00
(telecommunications)

G) Reproduction activities ... $50,000.00

Total.................$208,000.00

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY

TO Executive Director
Architectural and Transportation Barriers
Compliance Board

DATE APR 7 1976

FROM Chairman, Architectural and Transportation
Barriers Compliance Board

SUBJECT Answers to Questions Posed at the Hearing of the Senate Labor and Public Welfare Committee on February 26

With this memorandum, I am transmitting the subject materials.

Stanley B. Thomas, Jr.

Attachment

1. How many hours per month do you personally devote to Board work?

I spend about ten hours per month in Board activities, which include presiding at meetings, reviewing materials in draft stages, and in consultation and meetings with Board staff, DHEW liaison staff and others.

2. How many hours are devoted to Board work by staff members of your agency?

Staff in the Office of Facilities Engineering and Property Management (OFEMP)/OS and the Office for Handicapped Individuals currently are providing one and one quarter person years, respectively (for a total of 1¼ year). As the Board and its staff is fully operational, the level of work is expected to be on the increase to handle all of the materials and activities being developed.

Though less quantifiable, numerous professional staff have provided review and comment effort relative to Board reports, including the use of clerical personnel for preparation of written comments, and correspondence. Such materials reviewed include writing and compiling contents of the Annual Report of the ATBCB, and drafting of sections of the HEW material included therein. Specific sections of draft copies of materials for Board use, such as staffing and implementation plans, research strategies and projects, regulations and legislative and administrative recommendations, have been studied from the perspective of program and research activities of agencies such as the Rehabilitation Services Administration, the Developmental Disabilities Office, the Office for Civil Rights, Administration on Aging, Office of Youth Development, the Social Security Administration, the Social and Rehabilitation Services, the Office of the Secretary, and the National Institute of Education. Many of these tasks have been coordinated on an ad hoc basis by Dr. William Bean, Acting Director of the Office for Handicapped Individuals, whom I have designated as staff liaison for HEW.

In addition, some time has been devoted to Board activities, in general, in providing technical assistance consultation in routine correspondence, or face-to face meetings, public speaking engagements locally and in the field, and through distribution of publications such as American Rehabilitation, Programs for the Handicapped, copies of the Board's Housing Hearing Report, etc. There is also some referral of inquiry to the Board staff for direct reply.

More recently, RSA staff (and resources) were committed to producing the film "Access America" which had its premiere at the White House, February 17 to a select audience of key decision-makers and trend-setters.

3. How do you view your function as a Board Member -- as a representative of your agency, or as an independent member of an autonomous Board?

The A&TBCB has been established as a unit within the Executive Branch of the Federal government to perform specified activities. In performing these activities, the Board is autonomous. Thus, I function in both roles: as a member of an autonomous Board and as a representative of the concerns of the Department.

As the Board initiates and performs its activities, and arrives at decisions, I am taking part with an understanding of the implications of those decisions on the member agency that I represent.

4. How well can you, as a Board Member, exert independent judgement vis-a-vis the agency by which you are employed?

RESPONSE:

As a Board Member, I am able to exert independent judgement very well.

This judgement is based, as reflected in the answer to question three, on my own awareness of the implications of Board actions relative to DHEW programs and its interests in serving handicapped individuals.

5. Do you feel that, as a Board Member, you should be an advocate for the elimination of Barriers in your agency?

DHEW has always been a leader in removing barriers and taking other actions to facilitate integration of handicapped individuals into all levels of DHEW. This includes continuing plans to make the Mary E. Switzer Building a model of barrier-free design, and formation of a committee of handicapped employees formed to advise the administration on barrier removal and other matters. The committee has been subsumed under the affirmative action plans developed according to Section 501, but will continue to advise on barrier removal and other matters. Reference is also made to the continuing activity within RSA, along with the President's Committee on Employment of the Handicapped, in examing the problems of architectural, transportation and housing barriers, and in keeping these problems before the public, over the years, especially since the Commission on Architectural Barriers expired in 1969.

As stated in the response to question #7 specific activities are currently being supported by units within the Department.

Other activities include developing a formal structure within the Department in order that all the multiple and varied insights and interests of programs in the Department can be brought to bear on issues and problems that arise as the Board performs its activities.

Also notable is the activity of the Office of Facilities, Engineering and Property Management unit of the Department, developed more fully in the answer to question 13.

6. Since its establishment, I think it is an understatement to say that the Board has maintained a low profile. It is vitally important that handicapped and able-bodied people alike know of the Board's existence. How would you increase public awareness of the Board?

A national awareness campaign is being developed, to be launched as a special thrust in the Bi-Centennial Year. The Board has approved plans providing for the use of a slogan "Access America", to be further developed for use as an on-going heightening of awareness approach. The scheduling of the White House Conference on Handicapped Individuals and the preceeding mini-conferences in the 50 States provide excellent opportunity for special focus on and awareness of the Board.

The Board has accepted a plan to increase public awareness that includes interpretation and proper use of the International Symbol of Access, working with member agencies to determine their interpretation and application of the Symbol; coordination of promotion of the Symbol with the President's Committee on Employment of the Handicapped and other such groups and organizations; the conduct of an appropriate general information dissemination program; a survey of publications dealing with environmental barriers; development of a basis for producing and distributing news releases and other information; speeches and speaking engagements for the Executive Director; handling of official information inquiries; a study of the feasibility of a visual media library which can be interchanged to provide appropriate visual presentations for varied audiences; the conduct of appropriate public relations activities; appropriate follow-up with key decision makers and trend setters who participated in the "Tuesday at the White House" program; and publication of information for distribution to up-date progress occurring from these "awareness" activities.

7. In what ways has your agency adhered to the mandate of Section 502(f) to furnish to the Board "such technical, administrative, or other assistance as it may require to carry out its function?"

The responses to Questions 1 and 2 cite personnel commitments to Board activities on the part of HEW. In addition, significant assistance is rendered in technical and administrative areas relative to budgeting, planning, manpower needs assessment, information resource requirements, and in the myriad details of acquiring staff for the Board.

Also, before the Rehabilitation Act Amendments of 1974 (P.L. 93-516) provided for staffing and fiscal support, Board activities were supported almost totally by DHEW. These activities included a lead role in:

a) The Transportation Hearing held in in San Francisco in June 1974 (with GSA);

b) Initiation of studies --
    on Attitudinal Barriers
    on Transportation Policy
    on Outdoor Spaces
    on Housing Alternatives

c) Identification of compliance mechanisms in place;

d) Identification of related internal research projects or evaluation studies;

e) Preparation of the 1st Annual Report of the ATBCB

Plans are currently underway to strengthen the Department's role in support of Board activities. These plans include formalization of a Departmental mechanism for interaction with feedback from principle operating components with authority, experience, knowledge and concerns on barriers to handicapped persons; and designation of additional legal counsel existing in the Department to confer and consult with the DHEW liaison staff, and appropriate others relative to legal matters relative to compliance regulations, complaint investigation, and compliance follow-up. This is supportive of implementation of a systematic compliance system -- the Board function given the highest priority by DHEW, and the majority of the Board membership.

In addition, within the elements of HEW, there are a number of Research and Training, as well as Research and Demonstration projects with funding in excess of $1 million, currently developing information and expertise relative to the removal of barriers as they relate to handicapped persons--children as well as adults. These projects and research activities have been coordinated by the Board's staff research personnel. The DHEW section of the Board's 2nd Annual Report to the Congress and the President contains more detail relative to these projects, and the expected results which are vital to the needs of the Board in carrying out its functions.

8. Do you believe that the Board should be an active advocate for handicapped individuals?

RESPONSE:

Yes. The whole operation of the Board is advocacy -- not of the placard carrying variety, but that of impacting on the environment, especially public use facilities receiving Federal funding that the handicapped must be able to use. In this manner advocacy is defined as facilitating participation of the handicapped in main stream activities.

The Board, through its housing and transportation studies, hearings, and outreach in advocacy activities is bringing public awareness to the needs of handicapped people.

A more direct type of advocacy is the processing and resolving of complaints received from the public regarding inaccessible buildings and facilities.

9. What annual level of funding do you believe the Federal government should have for the purpose of eliminating physical barriers to handicapped individuals?

a) government-wide

It is not possible with available data to state an annual level of funding that would be required to eradicate all existing physical barriers to handicapped individuals, given the present amount of Federally owned, leased, or Federally assisted buildings, and facilities, including transportation systems (buses, rail cars, etc.) and service centers for use by the public. The number of buildings and facilities in which the Federal government has had an involvement since 1961 when the first set of "Standards of Accessibility" were adopted and began to be promulgated is staggering. In this respect, we defer to the General Services Administration.

b) within your agency

An estimated Cost of Correcting "Handicapped Deficiencies" in DHEW Owned and Assisted Facilities, and DHEW Leased Facilities Controlled by GSA, was developed in the Office of Facilities, Engineering and Property Management (OASM). This estimate shows a total requirement of $74,846,000 for 7,247 buildings as shown on the pages which follow.

Some DHEW data suggest refitting existing buildings may be as high as $1.48 per square foot. (See also material which follows). The more satisfactory approach is, of course, to assure that all new construction and facilities comply with the Federal Architectural Barriers Act.

9 (b)

ESTIMATED COST OF CORRECTING "HANDICAPPED DEFICIENCIES" IN DHEW OWNED AND ASSISTED FACILITIES

	No. Bldgs.	Total Sq. Ft.	Cost to Correct	$/Sq. Ft.
Federally Owned				
Office of the Secretary	1	9,000	$ 10,000	$1.11
Education Facilities	185	6,420,726	1,850,000	.29
Health Facilities	2,097	19,101,073	28,310,000	1.48
SSA District Offices	72	479,497	274,000	.57
SSA Headquarters	7	2,423,467	1,212,000	.50
SUBTOTAL	3,062	28,433,763	$31,656,000	1.11
DHEW Assisted				
Health Facilities	1,488	94,934,400	14,880,000	.16
Educational Facilities	1,136	78,336,288	15,904,000	.20
SUBTOTAL	2,624	173,270,866	30,784,000	.18
TOTAL (CONSTRUCTION)	5,686	201,704,451	$62,440,000	.31
Design & Supervision 8%			4,995,000	
TOTAL COST			$67,435,000	

* Based on representative costs developed from survey by Regional Engineers.

NOTE: Estimates do not include esvalation beyond Fall 1975.

9 (b)

ESTIMATED COST OF CORRECTING "HANDICAPPED DEFICIENCIES" IN DHEW LEASED FACILITIES CONTROLLED BY GSA

	No. Bldgs.	Total Sq. Ft.	Cost to Correct*	$/Sq. Ft.
DHEW Leased				
SSA District Offices	1,553	10,343,000	$6,212,000	$ .60
SSA Payment Centers	8	1,299,141	659,000	.51
TOTAL (CONSTRUCTION)	1,561	11,642,141	$6,862,000	$ .59
Design & Supervision 8%			549,000	.05
TOTAL COST			$7,411,000	$ .64

*Based on representative costs developed from survey by Regional Engineers.

NOTE: Estimates do not include escalation beyond Fall 1975.

10. How large should the staff of the Board be to carry out its mandates under Section 502? Please specify according to function (hearing examiners, attorneys, planners, architects, etc.).

The budget for the ATBCB is submitted with that of the DHEW according to procedures developed by the Executive Branch and within the President's over-all budget. For FY 1976, funding in the amount of $554,322 is specified. According to object class, this is allocated as follows:

Personnel Compensation (PFT - 11)	201,672
Personnel Benefits	18,150
Travel	15,000
Transportation of Things (Freight)	500
Rent, Comm. & Utilities (SLUC)	3,000 (---)
Printing and Reproduction	6,000
Other Services Training Reimbursable Services Contracts Check Charges Miscellaneous Charges	305,000
Supplies and Materials	2,000
Equipment	3,000

Within this budget, staff is assigned as follows:

Executive Director	2 Program Specialists
Compliance Officer	Clerk-Stenographer
Planning and Research Officer	Clerk Typists
General Counsel	2 Secretaries
Public Information Officer	

The President's budget for FY 1977 requests continuation of its FY 1976 level of funding. This amount will enable the Board to meet its responsibilities.

11. In conjunction with question 7, would you, as a Board Member, recommend to your agency and to OMB that funds and/or personnel be transferred (detailed) from your agency to the Board?

In effect, this is what has been done in regard to DHEW: positions and resources for the ATBCB have come from Department ceilings.

My recommendation would be for a budget line item for additional Board staff personnel, identifiable separately from the DHEW Budget. With existing Departmental manpower and budgetary restraints the "detail of staff" presents difficulties.

Recognition must also be made on staff time needed within each member agency to relate to Board matters. Currently, each agency has a designated liaison person; most also have a legal liaison. Experience has shown that the agency liaison activity should be supported by at least one full-time professional staff person.

12. Are there any grant or loan programs for construction administered by your agency that are not, in your opinion, convered by P.L. 90-480? Please answer in detail.

All grant and/or loan programs for construction purposes administered by DHEW are covered by P.L. 90-480.

As yet unresolved is the question of whether vendor payments from Federal programs administered by DHEW can be used to influence barrier-free construction, that is, whether or not there is authority, real or implicit, to prohibit purchase of services in inaccessible facilities.

13. With respect to those programs which are covered by P.L. 90-480, does your agency require certification that buildings covered thereby meet accessibility standards?

DHEW does have an operative Certification of Buildings program. OFEPM/OS has developed materials and procedures for uniform use in the field locations.

On September 19, 1974, OFEPM requested all Regional Engineers to conduct surveys of representative completed facilities, including Regional Office Buildings, SSA District Offices and FDA facilities completed since May 1970. The results of this sampling showed 67% overall compliance with ANSI A117.1:

Direct Federal Construction -- 80 buildings -- 60% Compliance
Federally Assisted Construction -- 65 buildings -- 75% Compliance

The Regional Offices of Facilities Engineering and Construction now carry the responsibility for certification in compliance for all buildings.

As a result of the non-compliance reported in the surveys, where certification had earlier been received from design architects and engineers and applicants, OFEPM changed the certification requirement to assure compliance.

Additional recommendations and materials developed by OFEPM are attached.

OFFICE OF FACILITIES ENGINEERING AND PROPERTY MANAGEMENT

I. COMPLIANCE

A. Funding Authority

1. Programs covered by P.L. 90-480.

See listing at the beginning of the report.

2. Programs not covered by P.L. 90-480.

None. All programs are covered.

B. Agency Compliance Mechanism.

1. Internal procedures to ensure compliance.

In order to strengthen the existing compliance mechanism described in the First Annual Report, DHEW Technical Handbook 4.12, "Design of Barrier-Free Facilities," was published in final form in January 1975, as a control document to ensure compliance with the minimum requirements of ANSI A117.1. Three thousand copies have been distributed to the Regional Offices of Facilities Engineering and Construction (ROFEC), Department Program activities and private interest. A second edition is now being printed. At the time of publication all Regional Engineers were instructed to complete the checklist, found in the handbook, for each project both at the completion of design and again at the completion of construction. Copies of the completed and signed checklists are to be sent to OFEPM headquarters so that the degree of compliance can be monitored for effectiveness. (See section "D" for description of internal evaluation study.)

C. Record Keeping: Activities regarding reporting requirements.

1. Facilities built 6/30/71 through 8/31/74.

In an effort to secure the necessary resources to inspect these existing facilities, OFEPM filed an application in June 1975 with the Economic Development Administration (EDA) of the Department of Commerce to fund this project under Title X of the Job Opportunities Program. Unfortunately, the project was not approved for funding by EDA.

Subsequently, OFEPM prepared an FY 77 budgetary request and justification to obtain the necessary funds to contract for inspection of the more than 3,000 facilities built during this period. Resources are not now available to conduct inspections of such an extensive number of facilities.

2. Facilities built during the semi-annual reporting periods.

On June 3, 1975, OFEPM sent to GSA a summary (in the form of a computer printout) of the status of all projects currently under design or construction. These projects, including both direct Federal and Federally assisted facilities, were checked for compliance with ANSI A117.1, and were certified by the Regional Engineer that the intent was that the projects comply with Public Law 90-480.

OFEPM Manual Chapters 2-135 and 4-01 were issued for the purpose of detailing procedures applicable to Federally assisted and direct Federal activities for the preparation of the ANSI standards checklists during the final design and during final inspection of facilities. It also provides procedures for documentation, reporting, record-keeping and for requesting waivers and exceptions in accordance with FPMR 101-19.6.

D. Agency surveys and investigations

1. Survey taken.

On September 19, 1974, OFEPM requested all Regional Engineers to conduct surveys of representative completed facilities, including Regional Office Buildings, SSA District Offices, and FDA facilities completed since May, 1970. The results of this sampling showed 67% overall compliance with ANSI A117.1:

Direct Federal Construction 80 buildings. 60% compliance

Federally assisted construction 65 buildings 75% compliance.

TOTAL 145 buildings - 67% compliance

The most commonly found deficiencies were in the following categories:

1.	Telephone (heights, booths)	25% compliance
2.	Identification signs (raised letters)	25% "
3.	Warning signals (audible & visual)	33% "
4.	Stairs (nosings, handrails)	67% "
5.	Elevators (control heights)	68% "
6.	Restrooms (mirror, towel disp. hts.)	68% "
7.	Parking lots (unassigned, unmarked)	68% "

It was evident that the majority of non-complying items could be corrected at relatively little cost. Technical Handbook 4.12 was subsequently published as an aid to be used in making future surveys of this nature.

2. Systems for handling complaints

Complaints received at OFEPM headquarters are coordinated with the Regional Engineer with jurisdiction over the project in question. In most cases the complaints are answered at the headquarters level with input provided by the Regional Engineer. Under the new control checklist and reporting system OFEPM headquarters will have on file a copy of the checklist certifying the degree of compliance for each completed facility. If a discrepancy is found between the complaint and the project checklist, the complaint will be referred to the Regional Engineer for investigation.

E. Waivers and Exemptions.

1. Policy and Procedure.

OFEPM Technical Bulletin No. 2-4 was issued on July 10, 1975, setting forth policies and procedures for obtaining waivers and exceptions. This procedure is also included in the previously mentioned manual Chapters 2-135 and 4-01. Requests for exceptions are to be submitted to the Office of the Secretary for the review and approval of the Architectural and Transportation Barriers Compliance Board (ATBCB). Waivers may only be granted with the approval of the Administrator of GSA as specified in FPMR 101-19.6. Requests for exceptions and waivers are to be forwarded by the Regional Office of the Administering Agency to the Director OFEPM, for review. They will then be forwarded to the Chairman, A&TBCB. Waiver requests which are concurred in by the A&TBCB shall be forwarded to the Administrator, GSA for approval.

2. Waivers and exceptions granted during FY 75 (including Justification).

No waivers or exceptions using the required FPMR procedures were requested or granted during FY 75.

II. BARRIER-RELATED AGENCY GOALS

A. To ensure that all facilities constructed with DHEW funds or occupied by DHEW, are accessible to and usable by the physically handicapped. (This supports A&TBCB Objectives #3 and #5.)

B. To consult with other Federal agencies and institutions for the purpose of creating quality and uniformity among standards affecting the handicapped. (A&TBCB Objectives #2 and #10.) Examples of current DHEW involvement:

1. Department staff has been serving on committees to review the HUD Minimum Property Standards in accordance with Section 209 of P.L. 93-383.
2. Our staff is currently participating and monitoring a grant made by HUD to Syracuse University for the development of new and more responsive ANSI Standards.
3. Our staff plans to participate in a new study, "Building Design Criteria for the Disabled," initiated by the A&TBCB under contract with the National Research Council of the Building Research Advisory Board.

4. As an ongoing activity, our staff has been working with GSA and the A&TBCB to improve the effectiveness of the reporting system as required by the FPMR.

C. To make the professional design community more aware of barrier-free design and the designer's responsibility for achieving it. (A&TBCB Objectives #3, 4, 5, 9, 11, and 12.)

D. To improve the system within DHEW for monitoring and enforcing compliance with existing regulations governing barrier-free design. (A&TBCB Objectives #5 and 12.)

III. ENVIRONMENTAL BARRIER RELATED RESEARCH ACTIVITIES

None.

IV. LEGISLATIVE AND ADMINISTRATIVE RECOMMENDATIONS

A. Current actions and policies.

1. Issuance of Technical Handbook 4.12 as a control document.
2. Emergency Public Works Proposal to survey existing facilities.
3. Summary to GSA of status of all current projects.
4. Issuance of OFEPM Manual Chapters 2-135 and 4-01 giving procedures for reporting, record keeping, waivers and exceptions.
5. Sample survey by Regional Offices of 145 DHEW facilities.
6. Issuance of OFEPM Technical Bulletin No. 2-4 on waivers and exceptions.

B. Recommendations.

We strongly support any efforts to strengthen, clarify, and unify the existing legislation, regulations, and standards governing facilities for the handicapped.

V. CONSUMER INVOLVEMENT

No procedures have been established or planned by OFEPM for gaining consumer input into administrative policy decisions.

VI. COMMUNICATIONS

A. OFEPM Technical Handbook 4.12, "Design of Barrier-Free Facilities."

B. OFEPM Technical Bulletin 2-4, "Accommodations for the Physically Handicapped."

C. OFEPM Manual Chapters 2-135 and 4-01, "Accessibility of Buildings to the Physically Handicapped."

D. Periodic memoranda and dialogue with Headquarters and Regional staffs to clarify and ensure understanding and accomplishment of objectives.

14. Can you provide estimates, broken down by executive agency, of the total number of buildings covered under P.L. 90-480 which should be accessible to handicapped individuals?

Some information has been developed relative to the number of buildings under the authority of DHEW which are covered by P.L. 90-480, and the number with deficiences which have been identified in the Reporting System.

This is presented in greater detail in response to question #9.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION
WASHINGTON, D. C. 20411

ASSISTANT SECRETARY-COMMISSIONER

MEMORANDUM FOR Stanley Thomas
Chairman, Architectural and Transportation Barriers Compliance Board

Subject: Response to Questions posed at the Senate Labor and Public Welfare Committee, Subcommittee on the Handicapped Oversight Hearings held February 26, 1976.

Mr. James S. Jeffers, Executive Director, Architectural and Transportation Barriers Compliance Board, has asked me to prepare responses to a series of questions posed by the above Subcommittee. This memorandum transmits herein my responses to the Subcommittee inquiries.

Subcommittee Questions:

1. How many hours per month do you personally devote to Board work?

Answer

This is a difficult question to provide a precise response to, because of the diverse policy issues the Board must consider which are of varying complexity and priority. As you may know, the Board has its regular meetings every other month and from time to time the Board conducts special meetings. It has been my policy to devote whatever hours may be necessary to properly analyze the policy issues facing the Board and to make those recommendations that reflect the Department's position. In addition, I consume many hours, with several staff people under my jurisdiction, obtaining their analyses as to the position to be taken with respect to Board issues. It is also not unusual, especially where certain technical expertise or other program knowledge is required, to consult with other staffs within the Department in order to make proper decisions.

2. How many hours are devoted to Board work by staff members of your agency?

Answer

As I indicated above, it is very difficult to respond in a precise manner to this kind of question. There are a number of different offices within the Department which have a special interest in or program responsibility for the handicapped. The Assistant to the Secretary for the Elderly and Handicapped, the Office of Special Concerns, Assistant Secretary for Housing Management, the Special User Division, Assistant Secretary for Policy Development and Research are all involved on a day to day basis in furthering many of the Board's objectives. The Department's liaison staff members expend considerable hours digesting, analyzing, and interpreting a tremendous volume of Board material for both its regular and special meetings. In addition, members of my staff work closely with the Board staff to refine, crystalize, and prioritize the program issues necessary for Board deliberations.

3. How do you view your function as a Board member -- as a representative of your agency, or as an independent member of an autonomous Board?

Answer

First, let me say that HUD is certainly a contributor to the Board, and should be supporting the objectives of the Board. We can bring to the Board, and have done so, more of the picture of residential housing as such than might be available in any of the other Government agencies. Indeed, a Board member has a dual role. On the one hand he represents his agency, and on the other hand he is a member of a Board responsible for monitoring agency compliance with the law, (P.L. 90-480).

I consider this dual role to be an advantage. The representative to the Board should be able to not only provide the Board with information and expertise in the housing field which includes not only architectural and design but also financing, land (site) choices, construction, valuation, and marketability. But at the same time, the representative of the Board should be a spokesman in his respective agency for encouraging the adoption of standards which will provide accessibility for the handicapped. I believe one of my most important functions is to advise the Board on the reactions of the marketplace to ensure that well intended requirements of the Board and HUD to provide more accessible housing does not become counter-productive. For example, the Board would not actually want to institute a requirement applicable to residential housing which might be onerous or impractical so as to completely eliminate the participation of private investors in government assisted housing.

Clearly, I believe that HUD's role with respect to the Board is probably a tempering role to bring the information on the marketplace into the deliberations of the Board.

4. How well can you, as a Board member, exert independent judgment vis-a-vis the agency by which you are employed?

Answer

I am not sure that my personal ability to exert independent judgment is measurable or quantifiable. It is certainly my intention to provide both HUD and the Board with the best independent judgment I can. I am sure that the Secretary of HUD, and the Chairman of the A&TBCB, both expect that of me. Of course, no decision is made or should be made in a vacuum. No judgment is completely independent of the influence of people with knowledge in different areas. For this reason, we have established an on-going intra-agency committee with representatives from the Assistant Secretaries for Administration, Housing Production and Mortgage Credit, Housing Management and Policy Development and

Research to coordinate Departmental policy in this field. To some degree, I am also influenced at Board meetings by experts from other agencies.

Let me also point out that HUD is an agency charged with providing decent, safe, and sanitary housing for all citizens, particularly low and moderate income individuals and families. I cannot overlook our responsibility to serve a broad spectrum of housing users. As I indicated in Question 3, the Board must be aware of the marketplace so that the mission of the Board achieves a proper balance with the goals of the Department's housing mission.

5. Do you feel that, as a Board member, you should be an advocate for the elimination of Barriers in your agency? If not, why not? If so, what have you done as an advocate?

Answer

I believe that my response to Question 3 above and Question 8 below adequately responds to this question.

6. Since its establishment, I think it is an understatement to say that the Board has maintained a low-profile. It is vitally important that handicapped and able-bodied people alike know of the Board's existence. How would you increase public awareness of the Board?

Answer

From what I have been able to observe, I do not believe that the Board has maintained a low profile. In my view, the Board has undertaken a number of activities to increase public awareness of Board efforts. For example, the Board is establishing permanent working relationships with many organizations and groups representing handicapped individuals, and individuals influential in architectural design, engineering, housing research and production, mortgage lending, product manufacturing, transportation planning and services, and others who most impact the development of our physical surroundings. The Board also conducted a Public Hearing on Housing for

Handicapped individuals in Chicago, June 9-10, 1975. Over 130 organization groups, and individuals were invited to attend the hearings and submit written testimony regarding their perception of the housing needs of disabled persons. The public information staff of the Board has been responsible for the development of pamphlets describing the Board's functions and activities, and has recently coordinated a "Tuesday at the White House" meeting with selected consumer, industry, and government representatives to hear about the Board and to view a Board sponsored film, "Access America". This film, which highlights some of the Barriers facing the handicapped, will soon be available for national distribution.

7. In what ways has your agency adhered to the mandate of Section 502(f) to furnish to the Board "such technical, administrative, or other assistance as it may require to carry out its functions?

Answer

We have provided technical representatives to the Building Research Advisory Board of the National Academy of Sciences which is attempting to indentify design criteria for the disabled and to develop mechanisms to facilitate the collection, correlation and dissemination of information related to environmental accessibility among Federal agencies, state and local government agencies and the private sector. Of course, agency staff members work closely with the Board staff relative to Board matters and activities and will be assisting the Board staff in developing contract specifications for research projects to be announced shortly.

We have also supported the Board's objectives through the Deparment's research efforts. The Department and the Board jointly sponsored a study undertaken by the American Society of Landscape Architects. The results of this study are available from HUD and the Government Printing Office in two separate volumes. One is an illustrated manual for environmental designers faced with the need to design accessible sites for both public and private facilities. This guide entitled "Barrier-Free Site Design," covers the design and planning of site features such as parking lots, walks, ramps, play areas, pools, street furniture, lighting, signs and restrooms. The second volume, is a compendium of the research which went into the project. It will include population data on the handicapped, criteria on the limitations caused by various types of physical disabilities, and design responses each requires, and case studies describing some of the solutions derived from research.

HUD is also sponsoring a revision to the American National Standards Institute (ANSI) A117.1 standard which would clarify the specific requirements for public buildings, as well as dwelling units and related exterior spaces. The School of Architecture at Syracuse University was chosen to administer the program of research and testing necessary for developing the new standard.

In addition, under a demonstration project in North Carolina, St. Andrews Presbyterian College is adapting standard mobile homes, acquired from the surplus disaster relief stock, for occupancy by handicapped students. The project team is giving special attention to safety factors, and is also examining the impact of the sudden increase in independence and responsibility upon persons who previously led relatively sheltered and protected lives.

Further, the Department is undertaking a two-year research project to develop a base of information on the implications of requiring that a given percentage of all HUD-assisted multifamily housing be accessible to the handicapped.

8. Do you believe that the Board should be an active advocate for handicapped individuals?

Answer

Yes, this is the most important role for the Board to serve. As an agency within the Government, it is a force for assuring better accessibility for the handicapped. Without the Board as an advocate, the importance of the Board objective - accessibility - could be submerged within the various governmental agencies and not receive the attention required. As an advocate, it can press for solutions or actions that agencies, with competing claims for attention, might not accord the same priorities.

9. What annual level of funding do you believe the Federal Government should have for the purpose of eliminating physical barriers to handicapped individuals:

   a) government-wide?
   b) within your agency?

Answer

(a) We have no recommendation with respect to what the appropriate government-wide funding level should be for eliminating barriers for the handicapped. We have no knowledge base within the Department to determine what funding levels should be in other Federal agencies, nor do we have an adequate understanding of other Federal agency programs and their construction expenditure levels. The Board may be able to respond to this question.

(b) I believe this question must be answered on two levels. First, the Department maintains a rather extensive research effort related to the handicapped. The Office of Policy Development and Research is currently sponsoring several projects related to the housing problems of the elderly and handicapped, and additional projects will be undertaken during 1976. The Fiscal Year 1976 research budget is $588,000. The following list demonstrates the scope of these ongoing projects:

-- A cost study, based on classifications of disabilities, will determine the expense requirements for making existing housing accessible, including design services and management adaptations. Information drawn from this study will be used in determining Departmental policy and standards for planning, management, and delivery services;

-- The revision, broadening and extension of the existing American National Standard for Accessible and Usable Buildings to include dwellings and their related exterior spaces. This report with its recommended revisions will reflect the state of the art in standards for barrier-free design to make the built environment accessible to people with various disabilities;

-- An evaluation and demonstration of mobile homes specially adapted for use by the severely handicapped. This project will adapt standard mobile home units to meet the needs of physically handicapped persons thereby facilitating independent living in low cost housing for this group with its special housing needs;

-- Further research in the use of a sheltered housing environment for the severely handicapped to determine whether persons with different types and degrees of disabilities benefit differently from sheltered residence, and if so, what this would suggest in determining target populations for operating programs;

-- Also, during this fiscal year the Department is planning to fund a study and demonstration of community based small group homes as a housing alternative for handicapped persons. This type of housing would be considered as an alternative to more costly institutional management and housing packages to provide varying levels of services and needs, depending on the special group served. The cost of the study will be approximately $340,000.

Second, the level of expenditures directly related to the handicapped, in other Federal agencies, is generally accomplished through government contract expenditures. With respect to HUD, private organizations expend the funds necessary to make their projects accessible. HUD's role is to provide subsidies or other assistance for the operation of the project or is to insure financing by a private mortgage lender for the project in order that the owner can obtain financing. Accordingly, the level of Federal funding by HUD is not truly relevant, nor are we able to measure or quantify, in dollar terms, what the private expenditures have been.

10. How large should the staff of the Board be to carry out its mandates under Section 502? Please specify according to function (hearing examiners, attorneys, planners, architects, etc.).

Answer

I would defer any response to this question to the Department of HEW. As a part of the early planning process for the Board, a manpower analysis was conducted by HEW to assist in identifying needed staff resources. The Board has seen this report, but the thrust of the question needs an answer not in terms of numbers but in terms of roles and responsibilities. The Board has not yet taken a position, nor has the Executive Branch, as to whether particular disciplines should be placed within the Board or whether the Board should rely on other agency skills.

11. In conjunction with Question 7 above, would you, as a Board member, recommend to your agency and to OMB that funds and/or personnel be transferred (or detailed) from your agency to the Board?

Answer

While the Board is an excellent mechanism for sharing and coordinating resources necessary to achieve its prescribed objectives, I do not consider it appropriate for controlling the resources of member agencies. As I indicated above, the Department has committed research monies related to the objectives of the Board and has provided agency staff assistance for the Board's activities.

We believe that the Board staff can be an excellent focal point for accumulation and dissemination of information and information sources. Most of the Board and its staff do not possess expertise in developing design and construction standards and should not be involved in their formation. It would be redundant to establish such expertise in the Board when it exists in each agency.

12. Are there any grant or loan programs for construction administered by your agency that are not, in your opinion, covered by Public Law 90-480? Please answer in detail.

13. With respect to those programs which are covered by Public Law 90-480, does your agency require certification that buildings covered thereby meet accessibility standards?

14. Can you provide estimates, broken down by executive agency, of the total number of buildings covered by Public Law 90-480 which should be accessible to handicapped individuals?

Answer

Since these questions are so intrinsically related, I will respond to them jointly.

Although P.L. 90-480 was implemented in HUD's programs by Part 40, Title 24 of the Code of Federal Regulations and by revisions of handbooks for various programs, the documents most affecting the design and construction of HUD related residential projects are the Minimum Property Standards.

At the present time our Minimum Property Standards for multifamily housing contains the following requirement:

> "A primary entrance readily accessible to the physically handicapped, in accordance with provisions of ANSI A117.1, shall be provided to any residential structure intended for occupancy by the elderly and physically handicapped, all elevator residential structures, any residential structure containing 25 or more housing units, and non-dwelling structures appurtenant to such residential structures."

Although it has been our interpretation of P.L. 90-480 that such requirements were mandatory only for publicly owned structures, we have applied the requirement to all multifamily housing.

The distinction made among publicly, federally and privately owned buildings is therefore very critical to a determination as to whether a given HUD program is subject to the coverage of P.L. 90-480. Some of the buildings which HUD supports directly and indirectly may be publicly owned, but not federally owned, such as housing owned by state or local housing agencies. HUD has determined that such housing when financed by a Federal grant or loan is covered by P.L. 90-480. In addition, other housing which HUD assists through insurance or subsidy is privately owned and is not covered by P.L. 90-480 but is covered to the extent described by our MPS.

I should like to point out that HUD has required that in housing designed specifically for the elderly or handicapped, the bathroom fixtures in at least 10 percent of each type of living unit be arranged to permit access and use by a person in a wheel chair.

Further, HUD has subsidized approximately 544,000 living units intended for occupancy by elderly persons, of which 10 percent or approximately 54,400 units were required to be accessible to and useable by the physically handicapped. Also, we have subsidized 8 housing projects containing 1,086 living units specifically for the occupancy by the physically handicapped.

With respect to your question regarding certifications of those structures covered under P.L. 90-480, our field offices are responsible for assuring compliance with the MPS through the reviews of project working drawings and specifications, on-site inspections during construction, or a certification of compliance by the designing architect.

David S. Cook

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INSTALLATIONS AND LOGISTICS

26 MAR 1976

Honorable Stanley B. Thomas, Jr.
Chairman
Architectural and Transportation
Barriers Compliance Board
Room 5700, HEW North Building
Washington, D.C. 20201

Dear Mr. Chairman:

This is in response to the Questions for the Members of the Architectural and Transportation Compliance Board that Senator Randolph transmitted through you on March 3, 1976.

My answers to Senator Randolph are attached as Enclosure 1 for consolidation with those of the other Board Members.

I am pleased to have been afforded the opportunity to set forth my position on these matters.

Sincerely yours,

JOHN J. BENNETT
Principal Deputy Assistant Secretary of Defense
(Installations and Logistics)

Enclosure

RESPONSE OF MR. FRANK A. SHRONTZ ASSISTANT SECRETARY OF DEFENSE (INSTALLATIONS & LOGISTICS) TO THE QUESTIONS OF SENATOR JENNINGS RALDOLPH CHAIRMAN, SUBCOMMITTEE ON THE HANDICAPPED, COMMITTEE FOR LABOR AND PUBLIC WELFARE, UNITED STATES SENATE

1. Question: How many hours per month do you personally devote to Board work?

Answer: Because of my very recent assumption of this position I have not had time to become fully involved in Board activities and I cannot predict just how much of my time will be devoted to these activities in the future.

2. Question: How many hours are devoted to Board work by staff members of your agency?

Answer: We estimate that 20 to 25% of one professional's fulltime effort has recently been devoted to Board work. This plus clerical support, supervisory review and administrative processing is estimated at 60 hours per month (based on a 22-day 176-hour working month). This figure does not include efforts in design, construction and development of design criteria throughout the Military Departments and Defense agencies which would be many times that amount.

3. Question: How do you view your function as a Board Member -- as a representative of your agency, or as an independent member of an autonomous Board?

Answer: I believe that both positions are correct and compatible. That is, as a representative of the DoD I can bring to the Board our special problems and expertise; as a member of the Board I can exercise independent judgment on Board problems.

4. Question: How well can you, as a Board Member, exert independent judgment vis-a-vis the agency by which you are employed?

Answer: I can exercise independent judgment regarding the Department of Defense fully and without bias.

5. Question: Do you feel that, as a Board Member, you should be an advocate for the elimination of Barriers in your agency?

Answer: Yes. The significant actions taken by this Department in 1975 and continuing to be taken indicate that we have been effective advocates for the removal of barriers. This is well demonstrated by our new policy on Design for the Physically Handicapped published on October 10, 1975 a copy of which is attached.

Enclosure 1

6. Question: Since its establishment, I think it is an understatement to say that the Board has maintained a low profile. It is vitally important that handicapped and able-bodied people alike know of the Board's existence. How would you increase public awareness of the Board?

Answer: The original establishment of the Board without staff and as an "additional duty" to otherwise fully employed individuals probably was the reason that little was accomplished in its early months. The later addition of a fulltime staff with permanent office space has resulted in much more activity and greater exposure of the Board. The maintenance of a fulltime, dedicated, and competent staff is probably the best means of increasing public awareness of the Board.

7. Question: In what ways has your agency adhered to the mandate of section 502(f) to furnish to the Board "such technical, administrative, or other assistance as it may require to carry out its functions"?

Answer: By the large staff effort of my office and the efforts of the Armed Services and Defense agencies in eliminating barriers to the handicapped in DoD buildings.

8. Question: Do you believe that the Board should be an active advocate for handicapped individuals?

Answer: I believe that the Board should study the problems of handicapped individuals, find solutions to these problems where possible and advocate, even mandate, the implementation of these solutions where feasible in the Federal sector. With respect to the private sector, advocacy is appropriate.

9. Question: What annual level of funding do you believe the Federal government should have for the purpose of eliminating physical barriers to handicapped individuals:

(a) government-wide?

(b) within your agency?

Enclosure 1

Answer:

(a) I do not know the level of funding that would be appropriate on a government-wide basis. On this subject I would defer to Chairman Thomas and the other members of the Board for the requirements of their agencies.

(b) The DoD does not require a specific fund or funding for the elimination of barriers. The cost of assuring that new buildings do not contain barriers is small and easily absorbed in our overall construction budget. The same is generally true when eliminating barriers from older buildings in conjunction with significant rehabilitation or modification projects. We recommend that a single purpose program for removing barriers from older buildings not be undertaken. We have estimated that of the 1.8 billion square feet of buildings owned by the DoD perhaps 10% would be covered by P.L. 90-480 were they to be built today. To modify these structures to be fully accessible is estimated to cost $8 per square foot for a total cost of $1.44 billion should a single purpose modification program be undertaken.

10. Question: How large should the staff of the Board be to carry out its mandates under section 502? Please specify according to function (hearing examiners, attorneys, planners, architects, etc.)

Answer: I understand that the Board staff has addressed this question and that the Department of HEW and Chairman Thomas have reviewed it in detail. I would therefore defer to him on this matter.

11. Question: In conjunction with question 7 above, would you, as a Board Member, recommend to your agency and to OMB that funds and/or personnel be transferred (or detailed) from your agency to the Board?

Answer: No, I would not. Dispersed funding and personnel support of an activity make oversight of the actual cost of that activity difficult. The Congress has recognized this problem and in Acts making appropriations for independent agencies (such as P.L. 93-381, Sec. 608) has for many years included the following language:

> "No part of any appropriation contained in this or any other Act, shall be available to finance interdepartmental boards, commissions, councils, committees, or similar groups under Section 214 of the Independent Offices Appropriations Act of 1946 (31 USC 691) which do not have prior and specific congressional approval of such method of financial support."

7

This prohibitation assures that the cost of each activity can be isolated and the financial burden that it imposes upon the Federal budget can be accurately assessed. We believe that the budet of the Board should be presented for approval as an entity, either as an independent agency or as a line item in the DHEW budget, and not dispersed among many agencies.

12. Question: Are there any grant or loan programs for construction administered by your agency that are not, in your opinion, covered by Public Law 90-480? Please answer in detail.

Answer: No, there are not.

13. Question: With respect to those programs which are covered by Public Law 90-480, does your agency require certification that buildings covered thereby meet accessibility standards?

Answer: We require a statement on the original programming document that the building will or will not be designed to be accessible to the handicapped. At the present, the only acceptable reason for not designing a DoD building to be accessible is that its intended use is limited exclusively to able-bodied military personnel as provided in P.L. 90-480.

14. Question: Can you provide estimates, broken down by executive agency, of the total number of buildings covered by Public Law 90-480 which should be accessible to handicapped individuals?

Answer: As noted above the DoD owns some 1.8 billion square feet of buildings. In round figures that is 350,000 separate structures. Of these, the great majority would provide no benefit to the handicapped if they were accessible. Ammunition storage igloos is a typical example as are barracks and mess halls restricted to able-bodied military personnel. Places of civilian employment such as manufacturing, warehousing, administrative buildings or other buildings open to the public or providing for morale, recreation and welfare activities could benefit the handicapped in many cases. These are estimated to number less than 30,000. Many are accessible and it is our policy that all new structures of this type will be accessible as required by P.L. 90-480.

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC [illegible]

March 22, 1976

Mr. James S. Jeffers
Executive Director
Architectural and Transportation
Barriers Compliance Board
Washington, DC 20201

Dear Mr. Jeffers:

This is in reply to your letter of March 12, 1976, transmitting questions posed by the Subcommittee on the Handicapped, Committee on Labor and Public Welfare.

Enclosed is our response to those questions.

If we can be of further assistance, please let us know.

Sincerely,

T.M. Chambers
Deputy Administrator

Enclosure

GSA FACT SHEET
Office of Construction Management
March 18, 1976

Response of the General Services Administration to Questions for Members of the Architectural and Transportation Barriers Compliance Board

1. Since establishment of the Board, our member has spent an average of five or six hours per month on Board work.

2. Liaison staff members of our agency devote approximately 70 hours per month to Board work.

3. This agency views its function as a Board member as an independent member of an autonomous Board capable of making a distinct contribution due to the role of the General Services Administration (GSA) relative to the building construction industry.

4. As a Board member, GSA's representative is able to exert independent judgment with respect to day-to-day agency operations.

5. This agency's Board member assumes a position of responsible advocacy within the agency taking into consideration his other responsibilities. The member has supported such barrier-free design programs as the "day-on-wheels" exercise; publication of the results of that exercise; the development of a new performance standard for accessibility and an accompanying user manual; the proposed production of an audiovisual presentation to effectively communicate a sense of awareness to the needs of the handicapped; and a survey of existing buildings which predate P.L. 90-480 to determine what needs to be done and how much it will cost to make them accessible.

6. The Board staff has developed a short film called "Access America" which was shown at a recent Tuesday at the White House. This film could be made available for distribution to various civic organizations and consumer advocate groups in an effort to increase public awareness of the Board. In addition, the Board's Public Information Officer is planning a national public awareness campaign based on the theme "Access America." Another target for a similar campaign should be Federal agencies which are not Board members but which play a role in the elimination of barriers. Other methods which could be used to increase the Board's visability include distribution of a newsletter, articles placed in magazines, and short television spots.

7. The General Services Administration, at the request of the Board's Chairman, Stanley B. Thomas, Jr., has designated an

attorney as legal liaison to the Board. This is the only specific request for "such technical administrative, or other assistance..." that the Board has made to date. However, members of our liaison staff informally support the Board staff in nearly all of their activities.

8. The Board should be an active advocate for the elimination of barriers confronting handicapped individuals.

9. The level of funding required for the elimination of physical barriers to handicapped individuals depends upon whether the facility in question is new construction or an alteration, and, if an alteration, whether barrier removal is accomplished integrally as part of a major alteration project or piecemeal.

In new construction, costs are minimal. In alteration work, the best approach is to make the elimination of barriers a priority. This assures that even with limited funds the most significant requirements, such as ramps, walks, entrance doors, and toilets, are altered for accessibility. Further, to maximize the effective use of funds, GSA schedules the requirements as part of major alteration projects.

The only way of accurately assessing the cost of alterations to existing buildings specifically to accommodate the handicapped is on a case-by-case basis. A recent survey of GSA-controlled buildings which are not subject to P.L. 90-480 indicates that the cost of providing accessibility in 1155 facilities is approximately $70 million.

10. A "zero-based" manpower analysis was conducted by the Department of Health, Education, and Welfare to assist in identifying needed staff resources for the Board. The analysis examined the legislative requirements of the Board and translated these into a series of goals, objectives, and tasks. The result of the study indicates that a minimum of 43.5 man-years is needed to develop actions necessary to accomplish the Board's mandates under Section 502 of P.L. 93-112. A copy of the detailed manpower analysis may be available from the Board's Executive Director, James S. Jeffers.

11. Congress should appropriate sufficient funds directly to the Board in order for it to remain autonomous.

12. The General Services Administration does not administer any grant or loan programs for construction.

13. Federal Property Management Regulations (FPMR) 101-19.606, "Recordkeeping," require that "the administering agency's file on each contract or grant for design, construction, or alteration... shall be documented (with)... statements as may be appropriate with respect to application of the (prescribed accessibility) standards...."

In order to assure that this subpart of the FPMR is being implemented, individuals within each of our regional offices have been designated with the responsibility of maintaining the file documentation. They are further required to include a certification appropriate to the particular project.

14. Following is a list of agencies and the number of buildings and facilities under their jurisdiction, which have been reported to us as being subject to Section 2 of Public Law 90-480:

Agency	No. of Buildings
Department of Agriculture	102
Department of Commerce	58
Department of Health, Education, and Welfare	3,110
Department of Housing and Urban Development	1,350
Department of the Interior	7,667
Department of Justice	18
Department of Transportation	193
Department of the Treasury	1
Atomic Energy Commission	34
Central Intelligence Agency	26
Federal Energy Administration	7
General Services Administration	1,356
National Aeronautics and Space Administration	127
National Capital Housing Authority	3
Office of Economic Opportunity	29
Tennessee Valley Authority	14
United States Postal Service	325
Veterans Administration	44

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

ASSISTANT SECRETARY

22 MAR 1976

MEMORANDUM FOR: James S. Jeffers, Executive Director
Architectural and Transportation
Barriers Compliance Board

SUBJECT: Response to Your Memorandum of March 12, 1976

Your memorandum of March 12, 1976, forwarded, for my response, questions submitted by Senator Randolph, Chairman of the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare.

Attached are my responses.

Judith T. Connor

Judith T. Connor
Assistant Secretary for
Environment, Safety, and
Consumer Affairs

Attachment

1. I devote, on an average, about 7 hours per month to the work of the Architectural and Transportation Barriers Compliance Board.

2. Staff members of the Department of Transportation devote, on an average, about 60 hours per month to the work of the Board.

3. I view my function both as a representative of my agency and as a member of a Board which has its own responsibilities. It appears to me that the purpose of having agency officials as Board members is to provide to the Board the expertise and the views of the agencies represented. Therefore, I believe it is entirely appropriate that I look upon my function as being, in part, a representative of my agency. However, the Board has its own statutory responsibilities, and as a member of the Board I therefore view myself as having the responsibility for helping to assure implementation of the statutory functions of the Board, which involves a degree of independence from simply representing an agency viewpoint.

   While these two functions of the Board members may seem to be in conflict with each other, I believe this is an appropriate sort of tension to exist in light of the statutory responsibilities and makeup of the Board.

4. In my own agency, one of my responsibilities is to understand and represent the viewpoints of the handicapped community. I do not have program responsibilities for making grants, for example, for mass transportation. Thus, even within my own agency, I exercise a degree of independent judgment from the grant-making responsibilities of the Department with the view toward assuring that policies regarding transportation of the handicapped are fairly considered. Thus, the independent judgment which I must exercise as a Board member is entirely consistent with the independent judgment that I am required to exercise within DOT itself.

5. I do believe I should be an advocate for the elimination of barriers within my agency. However, this advocacy must be a responsible advocacy, and must take into consideration other responsibilities and policies of my agency and of the Governenment as a whole.

In my role as a responsible advocate for the handicapped within DOT, amongst other actions I have particularly strongly encouraged the final promulgation of regulations -- which have been under development for some time -- relating to transportation of the handicapped in mass transit and by civil air carriers. I believe that promulgation of effective regulations in these two areas would be a major step toward significant and responsible action by this Department toward meeting the transportation needs of the handicapped.

6. The Board staff has been developing a public information program, and I believe that effort should continue. However, I believe it is much more important for the Board to be effective in carrying out its role within the Government than to expand major efforts to "heighten its profile."

7. The Department of Transportation has provided the following technical, administrative, and financial assistance to the Board:

   (a) served on the panel which screened applications for the position of Executive Director of the Board;

   (b) financed and supervised preparation of virtually all the Board's special transportation report mandated by the Rehabilitation Act Amendments of 1973, which established the Board;

   (c) provided information to Board staff about DOT activities related to compliance with P.L. 90-480, as amended, for inclusion in the Board's two annual reports to the Congress;

   (d) chaired the transportation hearing conducted by the Board in June 1974 in San Francisco, California;

   (e) provided $12,500 to support interim staff for the Board during its first year of operation;

   (f) recommended persons to serve on the Consumer Advisory Panel mandated by the Rehabilitation Act Amendments of 1974; and

   (g) recommended persons to participate in "Access America," a Tuesday, February 17th meeting at the White House which focused on the work of the Board.

In addition to the above, the Department provides staff time as required to assist the Board and Board staff in carrying out the work of the Board (for example, DOT personnel assisted in development of the FY 1976 program and research strategy which was adopted by the Board on March 9).

8. I believe the Board should be an active, responsible advocate for the handicapped community. I believe it should carry out this role primarily by assuring that the many agencies of the Federal Government which have responsibilities relative to the handicapped effectively implement those responsibilities.

9. I am not in a position to have an informed view on how much the Federal Government as a whole should be spending annually to eliminate physical barriers to handicapped individuals. Within DOT, I believe we will be in a better position to make a judgment on this question after action is completed on rulemaking with repsect to mass transportation for the handicapped.

10. I believe if the staff of the Board becomes much larger than it is at the present time, there is danger that the staff would cease to function as staff to the Board and, rather, take on the nature of an independent agency itself. I think this would be most undesirable. I do not believe we need another agency in this field -- rather, what is needed is for the Board to help to assure that agencies which have program responsibilities with respect to the handicapped are carrying out those responsibilities. Moreover, a large Board staff would tend to undertake efforts which duplicate activities of the agencies, and therefore could be wasteful and confusing. Accordingly, I believe the Board staff should be kept lean, to serve essentially as staff to the Board. While I am not confident in responding specifically as to needs by function, I believe that the present size of the Board staff, with some slight augmentation, would be appropriate.

11. I am opposed to the transfer of funds or personnel from my agency to the Board. I believe that the Board should be staffed and funded directly, as it now is. Earlier efforts to arrange for staffing of the Board through transfers did not work well, and I do not believe that is generally the proper way to staff a permanent organization such as the Board.

12. All grant or loan programs for construction administered by DOT, in our opinion, are covered by P.L. 90-480.

13. As provided by P.L. 90-480, and promulgated by FPMR Subpart 101-19.6, paragraph 101-19.607, DOT submits reports semi-annually to GSA certifying that buildings covered by P.L. 90-480 meet accessibility standards.

14. The estimated total number of buildings used by DOT, covered by P.L. 90-480, is 3,000.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D.C. 20210

MAR 23 1976

Stanley B. Thomas, Jr.
Chairman
Architectural and Transportation Barriers
Compliance Board
Room 5700, HEW North Building
Washington, D.C.

Dear ~~Mr. Thomas:~~ Stan

I am pleased to offer the following responses to the series of questions directed to the Board and all member agencies as a follow-up to the oversight hearings held by the Subcommittee on the Handicapped on February 26, 1976.

1. Personal time devoted to Board work averages twelve (12) hours per month.

2. Staff members of the Department of Labor time devoted to Board work averages seventy (70) hours per month.

3. The Secretary of Labor's designated A&TCB member is obligated to serve as a responsible member of a team of federal executives to promote the mission and bring about the functions required of the Board. This includes the obligation to be aware of and serve as advocate for the Board's mission within the Department of Labor and while discharging Departmental responsibilities. The statute which created the Board also mandated complimentary Department of Labor responsibilities which, in whole or part, are delegated to the Secretary's A&TCB designee, the discharge of which as a practical matter, do not permit a precise separation.

4. Labor's A&TCB designee has complimentary departmental responsibilities which promote the exercise of an unfettered judgment in transacting Board responsibilities.

5. The Department of Labor A&TCB designee serves as an advocate for the elimination of barriers in the Department and has:

   1) promoted an Educational and Training Administration (ETS) policy requiring State Agency compliance with the American Standards specifications for making buildings accessible and useable by physically handicapped individuals.

   2) supported the Occupational Safety and Health (OSHA) participation on an Administrative Advisory Panel, Government Sponsored Research on Design Considerations for handicapped people.

      supported OSHA responsibilities to inspect existing facilities, assist GSA in development of alternative plans as needed, and to include departmental monitoring for P.L. 90-480 compliance.

   3) promoted Departmental parking preference to handicapped persons, modifications such as toilet facilities, elevator controls, telephone, water fountain and trash container heights and electronic entrance openers, and on a continuing basis.

      promoted and participated in accessibility surveys and modifications where needed, of the new Washington, D.C. DOL building, and each Employment Standards Administration (ESA) Regional office facility on a continuing basis.

   4) promoted a barrier-free work environment through local, state and regional conferences, advocacy group conferences, Federal agency training, Department of Labor publications, radio announcement and press releases and conciliations of complaints by handicapped individuals and through publication of Section 503 regulations.

6. Current and active efforts are underway to implement a unanimous A&TCB policy to engage in an expanded public awareness campaign. This effort could include appropriate educational materials in either printed, or in film or tape form, for use in cooperation and coordination with the State and local conferences which will take place nationwide prior to the 1977 White Conference mandated by the authorizing statute.

Page 3

7. Technical, Administrative and other assistance has been provided to the Board as follows:

    1) staff liaison responsibilities, assigned by the Departmental designee to a second staff member

    2) staff liaison back-up responsibilities, assigned by the Departmental designee to a second staff member

    3) clerical and coordination support, as needed, is made available

    4) other assistance, of substantial significance, is provided the Board through technical discussions and workshops with advocacy groups, federal agency personnel and government contractors concerned with accessibility and the implementation of "reasonable accommodations" related to Section 503 regulations.

    5) contribution of one staff position and $12,500.00 in 1975 prior to budget and position allocations to the Board.

8. The Board should serve as an active advocate for the solution of Board related problems confronting handicapped individuals.

9. Government-wide cost estimates to eliminate physical barriers to handicapped individuals are not currently available or known to the Department of Labor. The Department of Labor affects the elimination of physical barriers in its own agency activities through the General Services Administration, and suggested funding levels would be found in GSA information responding to this question.

10. The Department of Labor concurs in the size and functional assignment of Architectural and Transportation Barriers board staff as requested in budget proposals.

11. In the absence of adequate resources available to the board, the Department of Labor would recommend that funds and/or personnel be transferred or detailed to the board.

12. Department of Labor funds are not used for construction or alterations, but for assisting persons being benefited as regards to jobs or counseling. Small amounts may be used in connection with the "weatherization" of buildings, such as storm windows and insulation, in a job effort with sponsors, but such is not regarded as an "alteration" and within the coverage of P.L. 90-480.

13. This question is not applicable to the Department of Labor, since the Agency does not contract with construction or alteration contractors. Any such activity is done through the General Services Administration.

14. In the Washington, D.C. area, Department of Labor activities utilize nine (9) buildings, including two (2) warehouses, which appear to be covered by P.L. 90-480; in the ten regions, there are five hundred seventy nine (579) buildings which are so used, and which appear to be covered by P.L. 90-480.

Sincerely,

Bernard

Bernard E. DeLury
Assistant Secretary

UNITED STATES POSTAL SERVICE
ADMINISTRATION GROUP
Washington, DC 20260

March 22, 1976

Mr. Stanley Thomas
Chairman
Architectural and Transportation
   Barriers Compliance Board
North Building, Room 5700
330 "C" Street, N.W.
Washington, D.C. 20201

Dear Mr. Thomas:

Reply is made to your letter of March 12, 1976, which enclosed a series of questions from the Senate Liaison and Public Welfare Committee, Subcommittee on the Handicapped.

As you requested, the attached listing responds to these questions posed to the Board and all member agencies of the Board.

Sincerely,

A. C. Maevis
Assistant Postmaster General
Real Estate & Buildings Department

RESPONSE TO QUESTIONS POSED BY THE SENATE
LABOR AND PUBLIC WELFARE COMMITTEE
SUBCOMMITTEE ON THE HANDICAPPED

FROM: A. C. MAEVIS, ASSISTANT POSTMASTER GENERAL,
REAL ESTATE & BUILDINGS DEPARTMENT,
U. S. POSTAL SERVICE

1. Question: How many hours per month do you personally devote to Board work?

   Response: Part of the routine work of this Department is providing for accessibility by the physically handicapped to postal facilities. My estimate is some place in a range of twenty hours per month.

2. Question: How many hours are devoted to Board work by staff members of your agency?

   Response: As in the question above, it is difficult to quantify the number of hours spent by staff members. Access by the physically handicapped is one of the requirements discussed on every postal facility undergoing construction.

   At least one hundred ten hours per month are devoted by USPS staff members to Board work.

3. Question: How do you view your function as a Board member--as a representative of your agency, or as an independent member of an autonomous Board?

   Response: Both. When a matter comes before the Board which concerns the Postal Service, it is my responsibility to make sure that the Board is advised of the Postal Service's concerns and problems. But many matters come before the Board in which the Postal Service has no special interest, and in which therefore I exercise an entirely independent judgment.

4. Question: How well can you, as a Board Member, exert independent judgment vis-a-vis the agency by which you are employed?

   Response: Very well. The A&TBCB and the U.S. Postal Service have similar responsibilities regarding accessibility for the physically handicapped. As a result there appears to be no significant conflict between my responsibilities to either organization.

5. Question: Do you feel that, as a Board Member, you should be an advocate for the elimination of barriers in your agency?

Response: Advocacy does not seem the best word. U.S. Postal Service policy is to comply with the Architectural Barriers Act of 1968. As head of the Real Estate and Buildings Department I am responsible for formulating and directing the implementation of this policy. In this respect, measures are taken to insure that Postal buildings are designed and constructed to meet applicable ANSI 117.1 standards. Presently, at my direction, the U.S. Postal Service is developing standards specifically for Postal Facility accessibility by the physically handicapped. These standards will equal or exceed the ANSI standards.

6. Question: Since its establishment, I think it is an understatement to say that the Board has maintained a low profile. It is vitally important that handicapped and able-bodied people alike know of the Board's existence. How would you increase public awareness of the Board?

Response: The Board should first act to perform its statutory functions, in particular to insure compliance with standards issued under the Architectural Barriers Act. In our experience, public awareness quickly follows whenever a public agency acts in a manner that has a practical impact. The members of the Consumer Advisory Panel may be asked to support public awareness to the Board.

7. Question: In what ways has your agency adhered to the mandate of Section 502(f) to furnish to the Board "such technical, adminstrative, or other assistance as it may require to carry out its functions?"

Response: When given the opportunity to do so, the U.S. Postal Service regularly provides staff assistance of advisory and technical nature in the review of standards, development of legal and regulatory procedures, and of all other matters or proposals submitted to the Board.

8. Question: Do you believe that the Board should be an active advocate for handicapped individuals?

Response: Yes, but the Board is constrained by its quasi-judicial role of judging questions of compliance with the Architectural Barriers Act of 1968. On compliance questions the Board must act in a fair manner adjudicating any conflicts between the interests of Federal grantees, Federal agencies, and the handicapped. The same responsibility to take fairly into account all relevant public interests would seem to devolve upon the Board in the performance of its other statutory responsibilities, except in its responsibility "to promote the use of the International Accessibility Symbol" where the law explicitly directs the Board in effect to be an advocate for the handicapped.

9. Question: What annual level of funding do you believe the Federal Government should have for the purpose of eliminating physical barriers to handicapped individuals:

(a) Government-wide?
(b) within your agency

Response: (a) Presently, there is no Government-wide mechanism for funding elimination of barriers. The Architectural Barriers Act, by applying prospectively to buildings that are to be designed, constructed, and altered, does not require significant levels of funding.

If a program were established to modify existing barriers, an authorization for appropriations would be needed and Congress would decide annually the appropriate level of funding.

(b) We estimate that at least 80 million dollars total is needed in order to modify a sufficient number of existing buildings to provide an adequate level of accessibility.

10. Question: How large should the staff of the Board be to carry out its mandates under Section 502? Please specify according to function (hearing examiners, attorneys, planners, architects, etc.)

Response: I would recommend that the Board staff be maintained at the present allocated level of thirteen persons.

11. Question: In conjunction with question 7 above, would you, as a Board member, recommend to your agency and to OMB that funds and/or personnel be transferred (or detailed) from your agency to the Board?

Response: No. I recommend distinct and separate funding and staffing for A&TBCB rather than transferring of agency funding and detailing of personnel, except by interagency agreement between the Board and the agency concerned, on a project of joint interest.

12. Question: Are there any grant or loan programs for construction administered by your agency that are not, in your opinion, covered by Public Law 90-480? Please answer in detail.

Response: The U.S. Postal Service does not administer grant or loan programs.

13. Question: With respect to the programs which are covered by Public Law 90-480, does your agency require certification that buildings covered thereby meet accessibility standards?

Response: Not applicable. See answer to question 12.

14. Question: Can you provide estimates, broken down by executive agency of the total number of buildings covered by Public Law No. 90-480 which should be accessible to handicapped individuals?

Response: Since promulgation of the ANSI 117.1 standards by GSA in 1969 under the Architectural Barriers Act, Postal Facilities have been designed, constructed and altered in accordance with the ANSI standard, which has continued as a postal regulation since 1971. This includes approximately 3500 owned and leased postal facilities.

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 22 197

Memorandum

To: James S. Jeffers, Executive Director, Architectural and Transportation Barriers Compliance Board

From: Assistant Secretary - Management

Subject: Response to questionnaire from Senate Labor and Public Welfare Committee, Subcommittee on the Handicapped Oversight Hearing held February 26, 1976

Enclosed, as requested in your memorandum of March 12, are my responses to the questions posed by Senator Randolph.

James T. Clark
James T. Clarke

Enclosure

DEPARTMENT OF THE INTERIOR

ADDITIONAL QUESTIONS FOR MEMBERS OF THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

1. How many hours per month do you personally devote to Board work?

Answer: Five or six.

2. How many hours are devoted to Board work by staff members of your agency?

Answer: Approximately 80 hours per month.

3. How do you view your function as a Board member -- as a representative of your agency, or as an independent member of an autonomous Board?

Answer: In voting matters before the Board, I view myself as an independent member of an autonomous Board. I also feel I have the responsibility to provide to the Board the views of my agency.

4. How well can you, as a Board member, exert independent judgment vis-a-vis the agency by which you are employed?

Answer: I have had no difficulty to date.

5. Do you feel that, as a Board Member, you should be an advocate for the elimination of barriers in your agency? -- If not, why not? -- If so, what have you done as an advocate?

Answer: Definitely, yes.

6. Since its establishment, I think it is an understatement to say that the Board has maintained a low profile. It is vitally important that handicapped and able-bodied people alike know of the Board's existence. How would you increase public awareness of the Board?

Answer: Hearings, workshops, films, speeches.

7. In what ways has your agency adhered to the mandate of section 502(f) to furnish to the Board "such technical, administrative, or other assistance as it may require to carry out its functions?"

Answer: The Department of the Interior furnishes the services of a liaison staff person to the Board staff. This person spends about 60 hours per month on Board matters. We also furnished the services of an attorney with the Office of the Solicitor, who works with the

General Counsel of the Board on legal matters, and an employee of the National Park Service who cooperates with the Department's liaison staff on Board matters which are related to parks and monuments.

8. Do you believe that the Board should be an active advocate for handicapped individuals?

Answer: There are other organizations which should be the "active" advocates. The Board's mission is assuring both accessibility and usability of buildings, facilities and transportation systems using various methods such as setting regulations, public information systems, technical assistance, research, etc. Carrying out this mission is indirect advocacy. "Active" advocacy should be left to such groups as the President's Committee on Employment of the Handicapped, Easter Seals, etc.

9. What annual level of funding do you believe the Federal Government should have for the purpose of eliminating physical barriers to handicapped individuals: (a) government-wide? (b) within your agency?

Answer: I have no basis presently for estimating the funding needed either government-wide or within Interior to eliminate physical barriers.

10. How large should the staff of the Board be to carry out its mandates under section 502? Please specify according to function (hearing examiners, attorneys, planners, architects, etc.).

Answer: I have not had a sufficient opportunity as a Board member to assess the optimum staffing patterns for the Board staff. Inasmuch as HEW has done some analysis on this issue, I defer to the Board Chairman, Mr. Thomas.

11. In conjunction with question 7 above, would you, as a Board member, recommend to your agency and to OMB that funds and/or personnel be transferred (or detailed) from your agency to the Board?

Answer: No. I believe the Board should be separately budgeted and funded -- rather than supported by reprogramming member agency funds.

12. Are there any grant or loan programs for construction administered by your agency that are not, in your opinion, covered by Public Law 90-480? Please answer in detail.

Answer: No.

13. With respect to those programs which are covered by Public Law 90-480, does your agency require certification that buildings covered thereby meet accessibility standards?

Answer: The Department requires that all bureaus with responsibility for construction activities comply with GSA's Federal Property Management Regulation 101-19.607 (Reporting). That regulation calls for semi-annual reporting of all ongoing construction projects and certification that those projects are in compliance with P.L. 90-480.

14. Can you provide estimates, broken down by executive agency, of the total number of buildings covered by Public Law 9-480 which should be accessible to handicapped individuals?

Answer: Please see GSA response which we understand includes the Department of the Interior.

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

March 18, 1976

Mr. James S. Jeffers
Executive Director
Architectural and Transportation
Barriers Compliance Board
Washington, D. C. 20201

Dear Jim:

Attached per your request, are my responses to the questions posed at the Senate Labor and Public Welfare Committee, Subcommittee on the Handicapped Oversight Hearing held February 26, 1976.

Sincerely,

Odell W. Vaughn
ODELL W. VAUGHN
Deputy Administrator

Att:

VETERANS ADMINISTRATION

ANSWERS TO QUESTIONS FOR MEMBERS OF THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

1. As a Board Member of the A&TBCB I devote approximately four hours to Board work.

2. Approximately 50 hours is devoted to Board work by staff members of VA.

3. As an independent member of an autonomous Board.

4. I have been delegated by the Administrator to totally function on my independent judgment and the Agency will abide by any decisions made.

5. Yes, I should be an advocate. I find that due to my being on the Board and being Deputy Administrator, the Agency has become more conscious of its obligation to eliminate barriers within the Agency.

I have stressed that our Agency must set an example if we expect others to comply. I have had surveys conducted throughout the Agency to determine what barriers exist and required correction. Follow-up inquiries have been made to assure correction. The National Service Officer of the DAV and PVA have been asked to report directly to me any violations reported by their membership.

6. I think the utilization of our Federal pipeline information system for press releases will be most helpful. In addition, Board members should emphasize a "barrier free environment" in future speeches.

7. I have selected a paralyzed veteran to work with our Office of Construction, reviewing plans for VA construction projects and GSA leased space for VA. He also attends all Board meetings with me and is a staff liaison representative to the Board staff. He has had experience in construction and on architectural barriers committees before coming to Washington in 1975.

8. Yes.

9a. I cannot respond to this question without a better definition as to what the Board intends to do. For example will the government be doing compliance inspections and will the government be going to court to prosecute violators. I do not feel that funding government-wide should be increased until these things are resolved.

9b. This agency does not need special funding in order to eliminate physical barriers. All our construction contracts include this requirement and funding is included in the contract. In moving into GSA leased space, we require GSA to satisfy the requirements.

10. The answer to this question is the same as 9a. I do not feel that we can increase staffing until such time as the Board has a definite mission outlined. For example there is no need for hearing examiners unless the hearings will result in some legal requirement.

11. No. I feel that the Board staff is large enough until such time as a true mission is defined.

12. No.

13. Yes.

14. No.

ADDITIONAL QUESTIONS FOR MEMBERS OF THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

1. How many hours per month do you personally devote to Board work?

2. How many hours are devoted to Board work by staff members of your agency?

3. How do you view your function as a Board Member -- as a representative of your agency, or as an independent member of an autonomous Board?

4. How well can you, as a Board Member, exert independent judgement vis-a-vis the agency by which you are employed?

5. Do you feel that, as a Board Member, you should be an advocate for the elimination of Barriers in your agency?

   --If not, why not?

   --If so, what have you done as an advocate?

6. Since its establishment, I think it is an understatement to say that the Board has maintained a low profile. It is vitally important that handicapped and able-bodied people alike know of the Board's existence. How would you increase public awareness of the Board?

7. In what ways has your agency adhered to the mandate of section 502(f) to furnish to the Board "such technical, administrative, or other assistance as it may require to carry out its functions"?

8. Do you believe that the Board should be an active advocate for handicapped individuals?

9. What annual level of funding do you believe the Federal government should have for the purpose of eliminating physical barriers to handicapped individuals:

   (a) government-wide?

   (b) within your agency?

10. How large should the staff of the Board be to carry out its mandates under section 502? Please specify according to function (hearing examiners, attorneys, planners, architects, etc.)

11. In conjunction with question 7 above, would you, as a Board Member, recommend to your agency and to OMB that funds and/or personnel be transferred (or detailed) from your agency to the Board?

12. Are there any grant or loan programs for construction administered by your agency that are not, in your opinion, covered by Public Law 90-480? Please answer in detail.

13. With respect to those programs which are covered by Public Law 90-480, does your agency require certification that buildings covered thereby meet accessibility standards?

14. **Can you provide estimates, broken down by executive agency, of the total number of buildings covered by Public Law 90-480 which should be accessible to handicapped individuals?**

Senator RANDOLPH. Mr. Gould, please.

Mr. GOULD. Yes, Mr. Chairman.

Senator RANDOLPH. Mr. Gould, you will introduce your associate.

STATEMENT OF CLIFFORD I. GOULD, ASSOCIATE DIRECTOR, FEDERAL PERSONNEL AND COMPENSATION DIVISION, GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY RAYMOND RIDGEWAY, SUPERVISORY AUDITOR, GENERAL ACCOUNTING OFFICE

Mr. GOULD. I am accompanied today by Mr. Raymond Ridgeway, Supervisory Auditor, General Accounting Office. Mr. Ridgeway was involved with our review of architectural barriers in Federal buildings.

Senator RANDOLPH. Now, we need to make buildings more accessible to the physically handicapped. That is a field in which you have some expertise and knowledge.

Would you give us the part of your statement you think we should focus on. Your entire statement will be made a part of our printed record.

Mr. GOULD. Proceeding on that basis, I will focus on the results of our review.

Our review included an inspection of 314 federally-financed buildings or building plans in 35 States and the District of Columbia. We tried to achieve regional and agency balance and, as much as possible, to randomly select buildings.

We performed inspections from July through December 1974, using a checklist based on ANSI standard to judge the buildings. In some instances the language of the standard was modified to quantify data or questions were added to more completely assess a particular aspect of a building. Other Federal, State, and privately developed standards were also consulted in making the modification. The buildings which we physically inspected were constructed, altered, or leased after enactment of the Architectural Barriers Act in August 1968.

Although more than 30 Federal agencies have construction and leasing authority and/or authority to fund construction through grants and loans, our review was limited to GSA, HUD, DOD, and HEW, which were given statutory responsibilities under the act.

To determine whether these agencies effectively administered the act, we assessed the clarity and adequacy of policy guidance and instruction; action taken in prescribing standards for making buildings accessible; procedures for modifying or waiving the prescribed standards, and procedures for reviewing and evaluating compliance with the prescribed standards.

We discussed the problem of accessibility in public buildings and the ANSI Standard with physically handicapped persons, architects, and representatives of national and local organizations for the handicapped.

In addition, we developed information on the cost of making buildings barrier free.

We did not make an in-depth review of the Architectural and Transportation Barriers Compliance Board's activities because at the time of our review the Board had just begun to function.

We found that the Architectural Barriers Act has had only a minor effect on making public buildings barrier free. Specifically:

No building we inspected was completely free of barriers; however, most buildings were in varying stages of compliance with the ANSI Standard.

Restrooms; controls for heat, air conditioning, and lighting; identifications of building areas; elevators; parking lots; and doors and doorways most often did not conform to the ANSI standard.

We found that buildings currently being designed and constructed are only slightly more barrier free than buildings designed and constructed within the years immediately following passage of the act.

Federally owned buildings had better facilities for the physically handicapped than Federally leased buildings.

Major barriers we found from the parking lots to the building entrances included streets to cross, high curbs to negotiate, and steps to climb.

Inside the buildings some of the major barriers included restrooms with unusable toilet stalls, water fountains that were too high, and elevators with controls beyond the reach of individuals in wheel chairs.

We found that the Architectural Barriers Act has several language deficiencies which we believe have lessened its effectiveness.

The act left implementing action to the discretion of the named agencies. It authorized the agencies to prescribe whatever standards were necessary to assure access to handicapped persons, to waive the standards on a case by case basis, and to make surveys and investigations deemed necessary to assure compliance with established standards. These provisions amounted to a delegation of authority to carry out the congressional intent of the act rather than a statutory mandate. The determination of the standards' content, waiver of the established standards, or nature or number of surveys is purely discretionary. We believe that the lack of success by GSA, HUD, DOD, and HEW in removing architectural barriers has resulted at least in part from the permissiveness of the act.

The Postal Reorganization Act of 1970 exempted the newly created Postal Service from application of any Federal law dealing with public or Federal contracts and property except for those specifically enumerated in 39 United State Code 410(b). The Architectural Barriers Act is not included.

The Postal Service has issued a regulation requiring compliance with the ANSI standard. This administrative action is commendable. However, the legislative history of the Architectural Barriers Act indicates that the Congress intended that post office buildings and facilities be covered by the act. Further, the Rehabilitation Act of 1973 established the Architectural and Transportation Barriers Compliance Board with the Postal Service as one of its eight members. Accordingly, we believe the U.S. Postal Service should be subject to statutory requirements, particularly since post office buildings are probably used more frequently by the public than any other Government buildings.

We found further that even though the ANSI standard was prescribed by each Federal agency and represents an important step toward promoting accessibility in public buildings, it is generally considered an incomplete, minimum standard.

It defines the various categories of accessibility but lacks specificity in certain important areas, which results in varying interpretations of the specifications.

It does not specify what facilities are to be covered and to what extent its specifications should be followed.

It does not cover residential housing.

It contains very few descriptive drawings.

Most of these inadequacies have now been recognized and actions are in process to update or arrive at new standards.

We have recommended that the Congress amend existing legislation to: Impose a clear statutory mandate that Federal agencies named in the Architectural Barriers Act insure that public buildings are made accessible to the physically handicapped. Include within the act all Government-leased buildings and facilities intended for public use or in which the physically handicapped might be employed as well as all privately owned buildings leased to the Government for public housing. Require that agencies named in the act establish a system of continuing surveys and investigations to insure compliance with prescribed standards. Remove the present exemption of the U.S. Postal Service from coverage under the Architectural Barriers Act.

We also recommend that the Architectural and Transportation Barriers Compliance Board coordinate the development of standards by each agency to insure that such standards are adequate to eliminate barriers to the physically handicapped in Federally financed buildings. The Compliance Board testified about some of the actions they have taken in response to our recommendation this morning.

Our report also recommended further action by the Administrator, GSA; the Secretary, HUD; the Secretary of Defense; and the Secretary, HEW to correct shortcomings disclosed by our review.

Several bills have been introduced in Congress to amend title 39, to provide that buildings constructed for use by the Postal Service shall be designed and constructed to make them accessible. Legislation, as suggested by our report, has also been introduced to amend the Architectural Barriers Act.

Each of the agencies included in our review generally agreed with our recommendations and have taken positive action to improve the conditions described in the report. We believe the actions taken are responsive toward carrying out the congressional intent.

The Architectural and Transportation Barriers Compliance Board testified to what they are doing in response to our recommendations.

I believe I have covered the more important matters in the statement, Mr. Chairman. We will be pleased to answer any questions.

Senator RANDOLPH. Thank you, Mr. Gould.

Now, what are the efforts being made in regard to the ANSI standards? Do you have any specific language you yourself would recommend to amend Public Law 90-480 and other laws?

Mr. GOULD. We found the standards are incomplete, minimum standards. They are general in nature and they are not specific. For example, the standards say there should be an appropriate number of restrooms for the physically handicapped in a building. The question of what is an appropriate number is left to the person complying with the standards.

We think they ought to be more specific about that.

There are very few illustrative drawings. We think the standards should show how things are to be constructed so the people involved in improving the building know what is required of them. There are efforts being made to improve the standards. This was mentioned in the testimony of the Board who is coordinating a review of these standards and the design of new standards.

At this point in time, it would be better for the architectural people to determine what should be included in standards rather than for Congress to include specific language as relates to standards in legislation.

Senator RANDOLPH. We are informed that there are efforts being made to improve this situation. Do you have any knowledge of it?

Mr. GOULD. Yes, sir. Mr. Ridgeway can give you the specifics.

Senator RANDOLPH. Mr. Ridgeway, we are happy to have you testify.

Mr. RIDGEWAY. Thank you, Mr. Chairman.

In June 1974 HUD contracted for revision and expansion of the ANSI standard, including development of specifications for residential housing. The contract was let to Syracuse University and is expected to be completed by June of 1976. GSA contracted in May of 1975 for interim standards to replace the ANSI standard in its Federal Property Management Regulations until more complete standards can be developed. These two particular contracts by HUD and GSA are being monitored by the Compliance Board.

Senator RANDOLPH. You have made some legislative recommendations. Have you made them in legislative language, or have you left that more for determination on the Hill?

Mr. GOULD. In the report we did set out legislative language we thought should be included to make the act more of a mandate to the agencies as opposed to a delegation of authority. There has been a bill introduced in the House—Ray, do you have that? It is House Bill 11228 which was introduced on December 17, 1975, which puts in language necessary to correct the bill. It does not have the complete language shown in our report but merely changes the language of the act, adds and deletes language, similar to many of the corrective types of legislative bills. But that bill does take into consideration those legislative recommendations we have made.

Senator RANDOLPH. Mr. Gould, some of us who have been here for a long while remember buildings of yesteryear. Let us take the Commerce Department building which was called a monstrosity when it was built. Do you know that building?

Mr. GOULD. No, I am not personally familiar with it, no, sir.

Senator RANDOLPH. Well, is there ever a check made on the Commerce Department building? And if so, who makes it?

Mr. GOULD. The buildings that we looked at, sir, were those constructed or altered subsequent to the act of August 1968. We would not have looked at any buildings constructed before that time.

Senator RANDOLPH. Yes. But I am asking your opinion as to whether you believe there is a broader responsibility—although not called for under the act—to check on buildings that are still in use that are part of the Federal structure?

Mr. GOULD. I believe that there are anywhere from 16 to 68 million handicapped people, depending on how you classify handicapped, in this country that should have access to public buildings. I think we ought to make an effort to do what we can to make those old monstrosities more accessible than we have to date.

Senator RANDOLPH. What suggestions do you have as to an agency that would carry forward that work? Would it be the General Services Administration or some other agency?

Mr. GOULD. Well, there are some 30 agencies that have construction authority for buildings and I think it would have to be all of those. I think something like the Compliance Board would have to take the initiative to see that was done. I think you have to get the architectural people involved because we are talking about individual buildings and what can be feasibly done to make them more accessible.

Senator RANDOLPH. Mr. Gould, as you know, not all Federal buildings were designed and constructed since 1968. Frankly, I myself would like to know to what extent architectural barriers exist in buildings such as these. They are used by thousands of people daily.

Mr. GOULD. Mr. Chairman, I might add there is a requirement that when a building is altered subsequent to 1968 the alteration is required to comply with the act. The question this raises when you alter a portion of the building, is what are your responsibilities in terms of the rest of the building? You can make restrooms that are accessible on the 7th floor of the building but if there is no way to get to them it does not make much sense. When you make an entranceway accessible, but once you are inside the building and cannot get above the first floor lobby, that does not make much sense.

So I think you have to take a comprehensive look at each building to see if they can be made more accessible.

Senator RANDOLPH. I am now only trying to say that we must and should know if the Federal buildings are part of a compliance program that takes care of accessibility for handicapped. Will you join us?

Mr. GOULD. I will do whatever I can.

Senator RANDOLPH. But we will have questions that perhaps we will supply in writing for you for responses rather than to do it in the committee at this time.

Mr. GOULD. Thank you Mr. Chairman. It has been a pleasure being here.

Senator RANDOLPH. Thank you, Mr. Gould and Mr. Ridgeway.

[The prepared statement of Mr. Gould follows:]

STATEMENT OF CLIFFORD I. GOULD, ASSOCIATE DIRECTOR, FEDERAL PERSONNEL AND COMPENSATION DIVISION

Mr. Chairman and members of the subcommittee, I appreciate your invitation to discuss our report "Further Action Needed to Make All Public Buildings Accessible to the Physically Handicapped."

Estimates of the number of physically handicapped people in the United States range from 18 to 68 million, depending mainly on how handicapped is defined. Although the severity of their handicaps vary, these individuals all have basic physical disabilities which restrict their daily activities. These disabilities include impairments that confine individuals to wheelchairs or necessitate the use of braces or crutches; blindness or deafness which affects an individual's safe functioning in a public area; or decreased mobility resulting from aging, accident, or disease.

If handicapped individuals cannot enter and use public buildings, they cannot easily vote, obtain government services, conduct business, or become independent and self-supporting. Efforts to enhance talents and market job skills become meaningless when the job site and usual places of business are inaccessible.

Accessibility of public buildings is essential if the handicapped are to have the same rights and opportunities as the able bodied in obtaining government services and employment outside their homes.

CONGRESS' EFFORTS TO ELIMINATE ARCHITECTURAL BARRIERS

By 1965, 24 States had taken some kind of legislative action to eliminate architectural barriers in public buildings. Much of the legislation was discretionary and not comprehensive in coverage. Too few public buildings were being constructed barrier free. There had been no concerted local efforts to activate an accessibility program. At the Federal level, no Government-wide order had been issued to insure elimination of barriers in the design and construction of federally assisted projects.

In 1965, Congress amended the Vocational Rehabilitation Act to expand the public program for rehabilitating the handicapped and authorized the National Commission on Architectural Barriers. The Commission grew out of a congressional desire to eliminate architectural barriers and to establish plans for further action.

In 1967 the Commission recommended to the Congress legislation requiring accessibility in all buildings leased or owned by the Government or constructed with Federal funds.

On August 12, 1968, the Congress enacted Public Law 90-480, known as the Architectural Barriers Act of 1968. The act's purpose was to insure that certain federally funded buildings were designed and constructed to be accessible to the physically handicapped.

AGENCIES ADOPT THE ANSI STANDARD

The American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (referred to as the ANSI Standard) was developed by the President's Committee on Employment of the Handicapped, the National Society for Crippled Children and Adults, and various Federal and private agencies and was field tested by disabled students from the University of Illinois. On October 31, 1961, the American National Standards Institute, established to coordinate the development of voluntary national standards, issued the ANSI Standard. The Standard was distributed throughout the United States by various organizations, including the National Easter Seal Society for Crippled Children and Adults.

The ANSI Standard sets forth minimum design requirements for 16 different aspects of a building—such as grading, parking lots, walks, entrances, doors and doorways, and restrooms—to make it accessible and functional for the physically handicapped without loss of function or space for the general public.

Each of the Federal agencies—GSA, HUD, DOD, and HEW—included in our review adopted the ANSI Standard and made it applicable to all construction under their responsibility.

SCOPE OF REVIEW

Our review included an inspection of 314 federally financed buildings or building plans in 35 states and the District of Columbia. We tried to achieve regional and agency balance and, as much as possible, to randomly select buildings.

We performed inspections from July through December 1974, using a checklist based on ANSI Standard to judge the buildings. In some instances the language of the Standard was modified to quantify data or questions were added to more completely assess a particular aspect of a building. Other Federal, State, and privately developed standards were also consulted in making the modifications. All buildings which we physically inspected were constructed, altered, or leased after enactment of the Architectural Barriers Act in August 1968.

Although more than 30 Federal agencies have constructed and leasing authority and/or authority to fund construction through grants and loans, our review was limited to GSA, HUD, DOD, and HEW, which were given statutory responsibilities under the act.

To determine whether these agencies effectively administered the act, we assessed the—

Clarity and adequacy of policy guidance and instructions.

Action taken in prescribing standards for making buildings accessible,

Procedures for modifying or waiving the prescribed standards, and

Procedures for reviewing and evaluating compliance with the prescribed standards.

We discussed the problem of accessibility in public buildings and the ANSI Standard with physically handicapped persons, architects, and representatives of national and local organizations for the handicapped.

In addition, we developed information on the cost of making buildings barrier free.

We did not make an in-depth review of the Architectural and Transportation Barriers Compliance Board's activities because, at the time of our review, the Board had just begun to function.

RESULTS OF GAO'S INSPECTIONS

The Architectural Barriers Act has had only a minor effect on making public buildings barrier free. Specifically:

No building inspected was completely free of barriers; however, most buildings were in varying stages of compliance with the ANSI Standard.

Restrooms; controls for heat, air-conditioning, and lighting; identifications of building areas; elevators; parking lots; and doors and doorways most often did not conform to the ANSI Standard.

Buildings currently being designed and constructed are only slightly more barrier free than buildings designed and constructed within the years immediately after passage of the act.

Federally owned buildings had better facilities for the physically handicapped than federally leased buildings.

Major barriers found from the parking lots to the building entrances included streets to cross, high curbs to negotiate, and steps to climb. Inside the buildings, major barriers included restrooms with unusable toilet stalls, water fountains that were too high, and elevators with controls beyond the reach of the physically handicapped.

DEFICIENCIES OF THE ACT

The Architectural Barriers Act has several language deficiencies which have lessened its effectiveness.

The act left implementing action to the discretion of the named agencies. It authorized the agencies to prescribe whatever standards were necessary to assure access to handicapped persons, to waive the standards on a case-by-case basis, and to make surveys and investigations deemed necesary to assure compliance with established standards. These provisions amounted to a delegation of authority to carry out the congressional intent of the act rather than a statutory mandate. The determination of the standards' content, waiver of the established standards, or nature or number of surveys is purely discretionary. We believe that the lack of success by GSA, HUD, DOD, and HEW in removing architectural barriers has resulted at least in part from the permissiveness of the act's terms.

The Postal Reorganization Act of 1970 exempted the newly created Postal Service from application of any Federal law dealing with public or Federal contracts and property except for those specifically enumerated in 39 U.S.C. 410 (b). Section 410(b) does not list the Architectural Barriers Act.

The Postal Service has issued a regulation requiring compliance with the ANSI Standard. This administrative action is commendable. However, the legislative history of the Architectural Barriers Act indicates that the Congress intended that Post Office buildings and facilities be covered by the act. Further, the Rehabilitation Act of 1973 established the Architectural and Transportation Barriers Compliance Board with the Postal Service as one of its eight members. Accordingly, we believe the U.S. Postal Service should be subject to a statutory requirement, particularly since Post Office buildings are probably used more frequently by the public than any other Government buildings.

DEFICIENCIES OF ANSI STANDARD

Even though the ANSI Standard was prescribed by each Federal agency and represents an important step toward promoting accessibility in public buildings, it is generally considered an incomplete, minimum standard.

It defines the various categories of accessibility but lacks specificity in certain important areas, which results in varying interpretations of its specifications.

It does not specify what facilities are to be covered and to what extent its specifications should be followed.

It does not cover residential housing.

It contains very few descriptive drawings.

Most of these inadequacies have been recognized and actions are in process to update or arrive at new standards.

COSTS OF ELIMINATING ARCHITECTURAL BARRIERS

Government, private contractor, and design personnel agree that the cost of accessibility features is negligible when such items are incorporated in the design phase; sometimes, it may even result in cost savings. In addition, although the cost of altering existing inaccessible buildings is more than that of initial barrier-free construction, it is relatively small when compared to total construction cost.

In February 1973 the then Acting Commissioner, Public Buildings Service, GSA, stated that barrier-free buildings can be provided at little or no additional cost, and sometimes at less cost, when the architect is aware of the needs of the handicapped and takes them into account in initial plans. He further stated that alterations to existing buildings to eliminate architectural barriers will involve additional cost depending on the extent of the alterations.

RECOMMENDATIONS

We have recommended that the Congress amend existing legislation to:

Impose a clear statutory mandate that Federal agencies named in the Architectural Barriers Act insure that public buildings are made accessible to the physically handicapped.

Include within the act all Government-leased buildings and facilities intended for public use or in which the physically handicapped might be employed as well as all privately owned buildings leased to the Government for public housing.

Require that agencies named in the act establish a system of continuing surveys and investigations to insure compliance with prescribed standards.

Remove the present exemption of the U.S. Postal Service from coverage under the Architectural Barriers Act.

We also recommended that the Architectural and Transportation Barriers Compliance Board coordinate the development of standards by each agency charged with construction responsibility to insure that such standards are adequate to eliminate barriers to the physically handicapped in federally financed buildings.

Our report also recommended further action by the Administrator, GSA; the Secretary, HUD; the Secretary of Defense; and the Secretary, HEW to correct shortcomings disclosed by our review.

ACTIONS TAKEN ON OUR RECOMMENDATIONS

Several bills have been introduced in Congress to amend title 39, United States Code, to provide that buildings constructed for use by the U.S. Postal Service shall be designed and constructed to make them accessible to the physically handicapped. Legislation, as suggested by our report, has also been introduced to amend the Architectural Barriers Act.

Each of the agencies included in our review generally agreed with our recommendations and has taken positive action to improve the conditions described in our report. We believe the actions taken by the agencies are responsive toward carrying out the congressional intent of the Architectural Barriers Act.

The Architectural and Transportation Barriers Compliance Board agreed that the function of coordinating the development of standards by each of the agencies could best be administered by a quasi-independent agency such as itself. In this connection, the Board contracted with the National Academy of Sciences, Building Research Advisory Board, to assist the Federal Government in coordinating efforts to develop effective criteria for design, construction, and alteration of Federally owned and leased buildings and facilities to make them accessible to the physically handicapped.

We also have been in contact with the Board and have agreed to provide it with data on buildings we inspected for compliance with the Architectural Barriers Act. We have sent to the Board data on some of these buildings and are preparing to forward data on the remaining buildings. The Board has advised us that it is reviewing the data we have provided and plans to keep us informed as to action taken to bring the buildings into compliance.

Mr. Chairman, thank you for the opportunity to appear before this Subcommittee. We would be pleased to respond to any questions you may have.

Senator RANDOLPH. We have a problem with one witness who is to leave the city on an airplane earlier than he thought. I wonder if the witness we were going to call now would understand. Mr. Noakes, would you understand my calling Mr. Russell first?

Mr. Harold Russell, please.

STATEMENT OF HAROLD RUSSELL, CHAIRMAN, THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED; ACCOMPANIED BY BERNARD POSNER, EXECUTIVE DIRECTOR, THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

Senator RANDOLPH. Good morning, Harold. It is good to see you again. Let me see. The last time was the White House when you and others were making plans for the White House conference. How is the situation developing on that?

Mr. RUSSELL. I think moving along fine and I think that is because the handicapped people are added and planning I think, and we can look forward to a good conference.

Senator RANDOLPH. You are setting the date back a little.

Mr. RUSSELL. Yes.

Senator RANDOLPH. We extended the time.

Mr. RUSSELL. Yes. To April 1977.

Senator RANDOLPH. Yes. I thought that would give a better opportunity for a workable and helpful program.

If you would please identify your associate.

Mr. RUSSELL. Mr. Bernard Posner, Executive Director, the President's Committee on Employment of the Handicapped.

Mr. Chairman, I appreciate the opportunity to testify on the Rehabilitation Act of 1973 as amended. In the 2 years since the law was passed, I have traveled almost everywhere in this country. Comments I have heard have been unanimous: This law is one of the most significant developments in the entire history of rehabilitation.

As in the case with any landmark legislation, this law has had a much greater impact than anybody could imagine. In some areas it has raised as many problems as it has answered.

Let me present some of these problems. A few might be solved by legislation. More might best be solved by administrative action.

First, there is the matter of numbers.

With greater national emphasis on the handicapped, with affirmative action getting underway, with greater attention being paid to resources for the handicapped, there is need for consistence in basic statistics about America's handicapped people. Yet there is no consistency.

I have seen data on handicapped adults ranging all the way from 11 million to 28 million. I have seen the number of employed handicapped persons ranging from 800,000 to 5 million.

I think we need consistency in America, not only in numbers of handicapped persons but in definitions. Yet, even the definitions vary widely ranging from a self-definition in the 1970 census to a three-part definition in the Rehabilitation Act and probably about 50 others in between.

How can this country tell how it is doing if there is no standardized measuring stick? We need reliable, consistent data. The 1980 census could be a good place to begin, if Census could be prevailed upon to include questions about handicapped conditions—either across-the-board or on a sampling basis.

Next, I think there is the question of supply and demand.

I refer specifically to section 503, the affirmative action provisions of the Rehabilitation Act.

Even though section 503 final regulations have not yet been published, we are finding a healthy willingness of business and industry to comply. Many already are engaged in outreach efforts to recruit qualified handicapped people for a variety of jobs. Yet we are beginning to detect what might prove to be an embarrassing situation.

Where are the qualified handicapped people for many jobs now going unfilled? What kind of affirmative action program is it, if it cannot deliver?

Let me cite one example, if I may, from Mr. Frank Washburn, manager of Industrial Relations for AirResearch Co. in Los Angeles, and a vice chairman of the California Governor's Committee on Employment of the Handicapped:

> One of our large employers sent out a list of 60 openings around to every place he could think of, including Rehabilitation, including the Employment Development Department. He received two responses.

Affirmative action is pointing up an underlying need for rehabilitation to become more job-placement oriented, so that the supply and demand gap might be closed. This might be done in several ways:

One: I would like to see more emphasis on job placement in the entire curriculum of students of vocational rehabilitation.

Two: I would like to see job placement as a definite, clearly spelled out responsibility for every rehabilitation counselor.

Three: I would like to see the development of a profession of job-placement specialists, who would have the same stature as that of vocational rehabilitation counselor.

Next, there is the matter of where to turn.

If I were a contractor with jobs to fill, I would find it hard put knowing where to turn to find handicapped manpower. The vocational rehabilitation office is a possibility for those who pass through the rehab process, but nobody else. The public employment office is a possibility but it cannot devote the attention to handicapped applicants that it used to show. Voluntary health organizations are a possibility but many of them do not have the expertise in evaluating job readiness.

What I am trying to say is in short there are no clear-cut supply lines. The supply lines need to be reevaluated and, if needed, thoroughly cleaned out.

And next, Mr. Chairman, is the matter of the severely handicapped people.

I have the uneasy feeling that altogether too many severely handicapped people are not in the labor market, not at work, not looking for work, not counted among the unemployed. And I think the 1970 census can bear me out. It shows that 59 percent of the total adult population is in the labor market, but that only 42 percent of the adult handicapped population is in the labor market. The differential —between 42 percent and 59 percent—undoubtedly is related to handicapped conditions. So I guess the question is: how can more severely handicapped people be reached and rehabilitated and employed? How can the differential be narrowed?

We have several suggestions:

One: I would like to see more job development programs with industry to build job slots for the severely handicapped. And it might be that an expansion of Projects With Industry could accomplish this.

Two: I would like to see more major businesses set aside portions of their plants for groups of severely handicapped people working together—a sort of sheltered workshop right on the premises of industry.

Three: I would like to see some attention paid to the matter of reasonable accommodations that industry is called upon to make in order to hire some severely handicapped people—architectural adaptations, workplace changes, special equipment, and so on. Should employers bear these extra costs or should they get some sort of relief in doing so? A national study is in order before we plunge into a quick answer.

And finally some random observations on a number of subjects:

One: I would like to see more coordination between section 503 affirmative action and other programs with opposite philosophies. One example, section 503 says "hire this person," OSHA says, "don't hire him."

Two: I would like to see more cooperation in placements between vocational rehabilitation and employment service. True, it exists here and there, but not everywhere.

Three: And I would like to see more attention paid to the voice of handicapped consumers. We are beginning to listen, but we should listen more; in fact, we should strengthen the development of the machinery for listening.

In spite of all of these points of refinement, I do hope we keep the overriding fact in mind: the Rehabilitation Act has been a remarkable piece of legislation. And it is being operated by dedicated people who have deep commitments to the law and to the handicapped people they serve. This country already is the richer for it, and handicapped people are better off because of it.

Thank you, Mr. Chairman, and members of the committee.

Senator RANDOLPH. As usual, it is a genuine privilege for those on the subcommittee not only to hear you but to remember that we have profited by our association in working with you.

You have one statement here about the 1980 census; you spoke of it as a good place to begin if there could be an inclusion of questions about handicapped or handicapping conditions. Now, you asked whether it should be across the board or should it be on a sampling basis? It would seem to me, Harold, that it only takes a couple of questions to make it across the board.

Do you feel it would be cumbersome to add a couple of questions to the census on the handicapped population?

Mr. RUSSELL. Senator Randolph, we come up against the question of defining what handicapped means. We find that a person must know what a "handicapping" condition is in the household and I think what we have got to do is refine the question in such a way to get a more complete answer or definition.

Senator RANDOLPH. I think we can develop something. I would like for us to work together.

Mr. RUSSELL. I would like to very much.

Senator RANDOLPH. Well, Harold, wherever you are going we know you will be doing good.

Thank you for coming.

Mr. RUSSELL. Thank you very much, Senator. Once again, I appreciate the opportunity of speaking here today.

Senator RANDOLPH. Mr. Noakes, please.

STATEMENT OF EDWARD H. NOAKES, PRESIDENT; ACCOMPANIED BY MRS. MARGARET MILNOR, PROGRAM DIRECTOR; STANLEY GAUGHAN, BOARD OF DIRECTORS, A PANEL FROM THE NATIONAL CENTER FOR A BARRIER FREE ENVIRONMENT

Senator RANDOLPH. We are very appreciative of your helping the subcommittee and if you will, introduce your associates and it will be very much appreciated.

We are in the process of a roll call in the Senate and Senator Stafford has preceded me—Off the record.

[Discussion off the record.]

Senator RANDOLPH. We are appreciative of your coming. I am going to ask that Mrs. Forsythe be here to listen to your testimony. I presume that Senator Stafford will be back in some 5 minutes or so. He told me he would come back as soon as he had voted. So until that time, we will continue to proceed as with a member present. But you will understand if there is not a member of the subcommittee here?

Mr. NOAKES. Of course.

Senator RANDOLPH. Then proceed to introduce your associates, give your testimony and perhaps have them respond to questions that the staff members might prepare.

Thank you sir.

Mr. NOAKES. Thank you.

On my right is Mrs. Margaret Milner who is a program director on the staff of the National Center. On my left is Mr. Stanley Gaughan, an architect from Washington and representative on the board of directors of the center, for the American Institute of Architects.

I am Edward H. Noakes, president of the National Center for a Barrier Free Environment and also an architect in private practice.

It is a privilege to be given this opportunity to present a statement on behalf of the center. We commend the Subcommittee on the Handicapped for its past and present actions on the serious questions relating to the rehabilitation of America's handicapped citizens. In this testimony I propose to limit my comments to the man-made environment into which handicapped individuals are discharged after rehabilitation, a subject addressed by the Congress many times over the years.

The National Center was established to coordinate a nationwide drive to make America free of the barriers that restrict the mobility of disabled people. The national policy for a barrier free environment was formulated at the time of the center's initial development and was submitted as a concurrent resolution in the U.S. Senate by Senator Randolph on February 7, 1975, and in the House of Representatives by Congressman Brademas on February 20, 1975. I would like to request permission to enter into the record the center's descriptive brochure which includes that policy as well as copies of our bimonthly publication report in order to provide more details on our programs.

[The brochure and information referred to follows:]

National Center for a Barrier Free Environment

Background

The National Center for a Barrier Free Environment was established to coordinate the national drive to make America free of physical barriers that restrict the mobility of disabled people. This widely-recognized need was confirmed by participants at the 1974 National Conference on Barrier Free Design when they drafted the National Policy for an accessible environment and called for a central organization to implement policy objectives. The Center was founded to provide that essential unifying focus.

Working with and through its members, the Center's total effort is directed towards freeing disabled Americans from the barriers that prevent their full use of the man-made environment.

The Public it Serves

20 million handicapped and aged Americans . . .

business corporations and others concerned with Affirmative Action on employment of handicapped workers . . .

national voluntary, professional and consumer organizations and their components who want to make their barriers programs more effective . . .

public and private agencies charged with implementing or complying with legislation ensuring the rights of handicapped citizens . . .

everyone who is committed to making America accessible.

Programs

establish a national clearinghouse of information and technical services for professionals, volunteers, disabled people, employers of handicapped workers, and concerned citizens.

create programs to assist businesses, academic institutions, and others directed by recent federal legislation to provide accessible facilities.

initiate and assist in drafting model legislation, codes and regulations.

identify research needs and relate to funding sources.

communicate through Center publications timely reports on activities and developments across the nation.

assess existing programs, develop innovative approaches, and direct coordinated effort to apply the most effective methods in locations where needs have been identified.

provide assistance to public agencies and private concerns with authority or influence to accelerate barrier removal.

Members

The Center is open to all who are concerned with environmental barriers. Support from a broad public base is essential, for membership dues provide the primary source of funds. Minimum annual dues are:

National Organizations	$1,000
Components of National Organizations	$ 100
Consumer Organizations or Public Agencies	$ 50
Individuals	$ 10

Contributors of $5,000 or more will be recognized as Sponsoring Members

make checks payable to:
National Center for a
Barrier Free Environment
8401 Connecticut Avenue
Washington, DC 20015
Telephone 301 / 656-9496

all subscriptions are tax-deductible and payable at the beginning of the calendar year / the Center is a private, non-profit corporation

National Policy

In the United States today it is estimated that one out of ten persons has limited mobility due to a temporary or a permanent physical disability. Improved medical techniques and an expanding population of older persons is increasing this number every year. Yet in general, the physical environment of our Nation's communities continues to be designed to accommodate the able-bodied, thereby increasing the isolation and dependence of disabled persons. To break this pattern requires a national commitment.

Therefore, it shall be national policy to recognize the inherent right of all citizens, regardless of their physical disability, to the full development of their economic, social and personal potential, through the free use of the man-made environment.

The adoption and implementation of this policy requires the mobilization of the resources of the private and public sectors to integrate handicapped people into their communities.

- endorsed by more than one hundred organizations since January, 1974
- submitted as a Concurrent Resolution in the United States Senate on February 7, 1975, and in the House of Representatives on February 20, 1975.

Founding Members

American Institute of Architects
Gallaudet College
Goodwill Industries of America, Inc.
National Congress of Organizations
  of the Physically Handicapped
National Easter Seal Society for
  Crippled Children and Adults
National Paraplegia Foundation
National Rehabilitation Association
Paralyzed Veterans of America, Inc.
President's Committee on Employment
  of the Handicapped

Sponsoring Member

Disabled American Veterans

REPORT

**National Center
for a
Barrier Free
Environment**

Volume 2 Number 1

**Washington, D.C.
January, 1976**

200 ATTEND ANNUAL MEETING

The National Center for a Barrier Free Environment held its first annual meeting on November 7 in Louisville, Kentucky, as the morning session of an all-day "Forums of Exchange on Developing a Barrier-Free Environment," with about 200 persons attending.

The conference was held in connection with the annual convention of one of the Center's founding members, the National Easter Seal Society for Crippled Children and Adults. Co-sponsors also included another founding member, the American Institute of Architects, the Architectural and Transportation Barriers Compliance Board, and Rehabilitation Services Administration of HEW.

The meeting was designed as a prototype for similar programs on barrier-free design to be duplicated at conventions of other organizations in the coming year. The Center offers its assistance to such groups in developing open forums of this type for their future meetings.

Center President Edward H. Noakes presented the annual report of the Center's first year, reviewing the forces that set in motion establishment of the Center and outlining proposed plans for the coming year. Excerpts from his report are on page 3.

Key speaker at the Center's open meeting was Edward Steinfeld, Director of the HUD-sponsored project at Syracuse University School of Architecture to revise the American National Standards Institute (ANSI) Specifications for Accessibility. Members of a reactor panel were Raymond B. Hayes, Jr., AIA, Frankfort, Ky., Whitney Webb, AIA, Paris, Ky., and Rodney Warmington, Houston, Texas.

James S. Jeffers, executive director, Architectural and Transportation Barriers Compliance Board, reported to the meeting on the Board's activities.

Chairman of the conference was Edward H. Matthei, AIA, secretary of the National Easter Seal Society and a member of the Board of Directors of the National Center in 1975.

Excerpts from these presentations and those made at the afternoon Open Forum are on pages 3-6.

Editorial

A SINGLE STANDARD

Because the movement to eliminate architectural barriers brings together a broad spectrum of individuals and organizations, the joint progress achieved will depend in large measure on our speaking the same language in terms of a single standard of accessibility.

A long-standing problem has been the needless confusion caused by conflicting codes. With the development of the new ANSI (American National Standards Institute) standard, providing clear prescriptive data based upon thorough research using handicapped subjects, the opportunity will exist for a uniform approach to all codes and regulations, whether local, state or national.

Existing legislation that is founded on the original ANSI standard should automatically incorporate the revised standard. Other agencies that may have adopted differing codes in the interim must be encouraged to bring their standards into conformity with the new ANSI standard.

The virtue of the ANSI standard will be twofold. First is its detailed content, which is essential to the practicing architect and builder who must deal with the subtle complexities of accessible design. Equally important is the broad base of support which ANSI develops through its traditional process of review and approval by advisory panels before it is adopted.

To fulfill the national function for which it is planned, the ANSI standard must be clear, complete and comprehensive. It must deal with the actual needs both of today's handicapped population and of those, perhaps more severely disabled, who may be seeking access to the community resources of the future. This is a large demand to make, but we feel the ANSI project now underway at Syracuse University School of Architecture is on the way to achieving it.

Founding Members

American Institute of Architects
Disabled American Veterans
Gallaudet College
Goodwill Industries of America, Inc.
National Congress of Organizations
of the Physically Handicapped
National Easter Seal Society for
Crippled Children and Adults
National Paraplegia Foundation
National Rehabilitation Association
Paralyzed Veterans of America, Inc.
President's Committee on Employment
of the Handicapped

Editor
Edmond J. Leonard
President's Committee on Employment
of the Handicapped

On The Campus

Mobility on Campus. Probably the most detailed and complete tactile map for blind persons in existence today is that produced at the Massachusetts Institute of Technology for visually handicapped students. Embossed symbols on the Braille-like map reveal the outline of buildings, streets, sidewalks, corridors and types of entrances such as revolving and electric-eye doors. Mail boxes, eating places, bus stops, parking areas, street crossings, traffic signals and overhead building connections are also found on the map. The MIT Planning Office (77 Massachusetts Avenue, Cambridge, MA 02139) is studying the feasibility of an "Electronic Guideway." Blind students or visitors would carry a small radio receiver that relays a signal to them indicating the safest way to move from one MIT building to another.

Higher Education Accessibility Project. Early last year the Bureau of Education for the Handicapped, U.S. Office of Education, awarded Abt Associates of Cambridge, Mass., a grant to determine the accessibility of our Nation's colleges and universities to handicapped students. Initially, Abt Associates mailed letters inviting every four-year college and university in the country to participate in the survey process. They received 981 affirmative responses. Last month each of these 981 colleges received a 25-page survey with questions on everything from building and grounds accessibility to higher education resources information and special student services. The returning data will be compiled in a guidebook designed to assist prospective handicapped students in determining which colleges best fill their needs.

Litigation

Alabama Discrimination Case Appealed. In June, 1975, a District Court judge in the case of Snowden v. Birmingham-Jefferson County Transit Authority found that there was not sufficient legal precedence or other authority to sustain the contention of the handicapped plaintiff that equal access to public transportation was a fundamental right guaranteed by the Constitution. The case has now been appealed to the U.S. Court of Appeals for the Fifth Circuit. This is the first case challenging inaccessible transportation to reach the Federal appellate level. Referring to this court case, an editorial in "New World," publication of the California Association of the Physically Handicapped, predicted that it "will go down in history as a classic court decision codifying injustice just as did *Plessy vs. Ferguson* in the last century (that a black man has no rights that a white man need respect)."

Jury Finds Discrimination. "You may be interested to know about the case of *Marsh v. Edwards Theatres Circuit, Inc.* which I recently tried in the Los Angeles Superior Court. The jury found that the theatre manager had discriminated against a quadriplegic veteran when he refused him entrance to the theatre because his wheelchair might allegedly block an aisle in violation of fire regulations. The court awarded statutory damages of $250. Even though we 'won' the case, the matter has been appealed because the judge did not grant all the relief sought. The judge failed to grant an injunction against (1) any further denial of access to handicapped persons, and (2) further operation of the theatre until all architectural barriers are removed. . . ." — Communication from Mason H. Rose V, National Center Member, Los Angeles.

Transportation

Keep on Busing. Greyhound's "Helping Hand Service," announced in October, and quickly copied by Continental Trailways, permits a handicapped person plus an attendant to travel for the price of a single passenger. This is the latest promotion adopted by the nation's two largest bus companies in their competitive war to convince the public of their social consciousness. Needed to qualify for the single fare is a statement from a doctor certifying that the person is disabled to the extent of requiring assistance of an attendant to board, alight and travel on a bus. Some observers point out that these non-paying attendants will be taking some of the pressure off the bus operators, who have been told by the Interstate Commerce Commission in a notice of proposed rulemaking, that given 30 minutes notice, they must "provide assistance to handicapped, disabled, blind, and elderly passengers in boarding buses. . . ."

Count 'Em. Some 350,000 Los Angeles County residents suffer disabilities that prevent their using existing public buses, according to a study by Southern California Rapid Transit District. These preliminary figures are based on a national study of transit-disabled persons done for the Urban Mass Transportation Administration by the Transportation Systems Center in Cambridge, Mass. The Southern California study showed an estimated 190,000 persons using aids such as crutches or braces; about 14,000 who used wheelchairs or walkers, and more than 114,000 who were limited by artificial limbs or severe pulmonary conditions. About 200,000 residents of the county over 65 years of age are also handicapped.

Pioneers in Boston. The Massachusetts Bay Transportation Authority is purchasing 25 buses equipped with hydraulic lifts, providing accessibility to the Boston area rapid transit routes for the first time.

Forums of Exchange . . . .

Developing a Barrier Free Environment

About 200 persons were present in Louisville, Kentucky, on November 7, 1975, for the "Forums of Exchange on Developing a Barrier-Free Environment," sponsored by the National Center for a Barrier Free Environment, the National Easter Seal Society for Crippled Children and Adults, the American Institute of Architects, the Architectural and Transportation Barriers Compliance Board, and HEW's Rehabilitation Services Administration.

The conference was designed primarily to share recent developments in the establishment of design criteria standards and building codes affecting accessibility for persons with handicaps. The group, representing public and private agencies, governmental bodies, schools, architectural firms, professional societies and individuals, reflected the diverse but related interests in the movement to eliminate barriers for handicapped people.

Particular attention was given to the HUD-sponsored project at Syracuse University to revise the American National Standards Institute (ANSI) Specifications for Accessibility (ANSI A117.1-1961, R1971) and expand them to include living units. The Project's testing phase was described by Edward H. Steinfeld, assistant professor at Syracuse's School of Architecture who serves as Project Director.

His presentation, which included slides describing the mock testing site on the Syracuse campus, was given at the morning open meeting of the National Center for a Barrier Free Environment. This first annual meeting of the National Center, scheduled as the opening session for the conference, was convened by Edward H. Noakes, Center president. Copies of *REPORT*, the National Center's newsletter, were distributed at the meeting.

James S. Jeffers, executive director of the Architectural and Transportation Barriers Compliance Board, also addressed the Center's meeting, describing the Board's activities and inviting those present to notify his office of any barrier violations in federally-funded buildings.

In the afternoon session, Robert M. Dillon, executive director of the Building Research Advisory Board (BRAB) of the National Research Council, described two federally funded projects related to design criteria and strategies for educating the building design and development communities to the needs of the disabled.

A summary report of a Special Conference held in connection with the 1975 National Easter Seal Convention, November 7, 1975 in Louisville.

James R. Dowling, director of AIA's Codes and Regulations Center, examined the evolvement of model codes and pointed to the confusion resulting from the practice of most major cities writing their own codes.

Andrew S. Adams, Ph.D., Commissioner, Rehabilitation Services Administration, HEW, spoke on the impact of current efforts to eliminate barriers on rehabilitation. The social and legislative trends affecting environmental changes "challenge many of us to shape rehabilitation services in a manner which capitalizes on the new potentials," he said.

Conferees were also introduced to two new visual resources: an illustrated manual on "Design for the Disabled," developed at Virginia Polytechnic Institute, Blacksburg, Va., and "ABRA!" a series of slide presentations on barrier removal produced at East Central University, Ada, Okla. An exhibit of printed resources was on display at the conference. Excerpts of presentations made and a listing of the resources exhibited are on pages 4-6.

National Center Reports on First Year

With publication of the bimonthly newsletter, REPORT, sent to more than 10,000 organizations and individuals, the National Center for a Barrier Free Environment has taken an important step toward providing an information exchange on environmental barriers, Center President Edward H. Noakes said in his annual report.

Although a full information clearinghouse has not yet been established, the Center responds to inquiries on barrier-free design or refers them to experts among its membership. The Center has endorsed positions or submitted testimony to Congressional and other hearings, and is represented through Board members

(Continued on page 4)

Developing New ANSI Standards of Accessibility

New standards of accessibility, based on comprehensive objective data, are being developed at Syracuse University School of Architecture under a two-year contract with the Department of Housing and Urban Development.

Project Director Edward H. Steinfeld told the National Center meeting that information is being generated to revise and augment the American National Standards Institute specifications (ANSI A117.1), "Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped." Secretariat of the committee responsible for the ANSI standard consists of HUD, the National Easter Seal Society, and the President's Committee on Employment of the Handicapped.

Since the standard was first approved in 1961, it has become apparent that there are many inadequacies, particularly the lack of criteria for housing units. These inadequacies, coupled with the lack of hard data on many concerns of accessibility, have resulted in a profusion of different and unvalidated recommendations from many sources.

Most of the testing equipment at Syracuse consists of full-scale mockups of parts of buildings. Consumer testers — 60 in wheelchairs and 200 with other disabilities — will demonstrate typical tests while the devices are adjusted until they can do the tasks satisfactorily. Video tapes will be taken to demonstrate different ways to do things — both typical and unusual problems.

A separate study is going on with 30-40 blind persons, obtaining data on their mobility problems in public buildings and with exterior site design.

Previous research has focused on the wheelchair user and has neglected the needs of people with stamina and sensory disabilities. "Our research seeks to establish a more generalized data base than exists presently — one which will help to end confusion and omission in contemporary design practice and environmental policy."

Architectural and Transportation Barriers Compliance Board

James S. Jeffers, executive director, Architectural and Transportation Barriers Compliance Board, described the mission of the Board, created by Congress in 1973 as an enforcement mechanism to ensure adherence to laws affecting construction of federally-funded buildings.

The Board encourages a federally coordinated approach in developing standards, policies and research and enforcing standards. The Board may investigate federally-financed construction and issue an order of compliance. Such an order is final and binding and may include withholding or suspension of federal funds. Mr. Jeffers invited the audience to alert his office to any violations so that an investigation might be made.

In a "catalytic role," the Board has the capacity to spark states, localities and private segments to implement innovative programs produced under the Board's research function. A Consumers Advisory Panel now being assembled will allow input by persons most affected by barrier-free design. Other inputs will be gained through public hearings such as those on housing conducted last June.

Testimony given at the hearings has been compiled into a report to Congress and the President, entitled "Housing Needs of Handicapped Individuals," to be published for distribution to the public. Another resource being compiled by the Board in cooperation with the Airport Operators Council International, is a book detailing accessibility in the nation's airports.

National Center Annual Report

(Continued from page 3)

on such projects as the Advisory Panel for the new ANSI standards and the steering committee of the National Coalition for housing and the Handicapped.

A national design competition for adaptable housing, expected to receive funding from the Department of Housing and Urban Development, will utilize the preliminary ANSI standards and provide important feedback on the standards from professional designers. Organizing support for the final ANSI standards will be a prime concern of the Center.

To fully realize the potential impact of the Center in these and other areas of service, a full-time staff and adequate funding are essential. As a non-profit, tax-exempt corporation, the Center can receive grants and contracts from government agencies, foundations and businesses, as well as membership contributions from organizations and individuals.

RSA Commissioner Adams

"Removing barriers is an investment which will pay off both (in) the quality of life and the gross national product," asserted Dr. Andrew S. Adams, Commissioner, Rehabilitation Services Administration, HEW.

"The conviction that it would cost us much more as a nation if we were not engaged in assisting handicapped persons to become economically independent is a universal judgment. The documentation of cost effectiveness on rehabilitation of severely handicapped persons is not yet firmly established, but I believe this relatively new development will also prove to be a significant contribution to the economic health of the nation. We need to make the same kind of case for the value of removing architectural barriers."

Housing, transportation and opportunities for economic independence were cited by Dr. Adams as areas needing particular emphasis. "Perfunctory or minimal attention is likely to produce small numbers of grouped housing which is personally functional but constitutes 'barrier-free ghettos' isolating the handicapped from the normal and beneficial options of interaction with the diverse group of persons constituting a neighborhood and community. We need to pay continued close attention to the implementation of the 1974 Housing and Community Development Act — and take every advantage of the mandated collaboration with HEW."

Building Codes

"Codes and standards can be an effective tool in bringing about mandatory barrier-free provisions," stated James R. Dowling, director, Code and Regulations Center, American Institute of Architects.

"But despite the extensive adoption of uniform model building codes, major cities, with a few notable exceptions, seem determined to go their own way."

The five model building codes are: three "general interest" — BOCA (Building Officials and Code Administrators International), ICBO (International Conference of Building Officials), and SBCC (Southern Building Code Congress), and two "special limited interest" — American Insurance Association and National Fire Protection Association.

Participation in writing or updating model codes is open to the public, and anyone can submit a code change so long as he can substantiate or document the need for the change. Mr. Dowling stressed the need to lessen the fragmentation among groups representing the physically disabled when presenting proposals for code changes, and for such groups to agree on proposed code changes before submission, mustering their forces to support the change.

Some provisions for the physically handicapped were approved for incorporation in the 1975 BOCA basic code. Comparable changes proposed to the ICBO and Southern codes were reviewed at final hearings in the fall of 1975 and are expected to be published in their 1976 editions.

Building Research Advisory Board

Two programs at the Building Research Advisory Board of the National Research Council were described by Robert M. Dillon, AIA, BRAB executive director. He described the Board's 26 years experience working with all segments of the building community and with individual organizations that contribute to building and environmental design.

One project, "Accessible Environments for the Disabled," funded by HEW Developmental Disabilities Office, will devise a strategy for making the building and development community more responsive to the needs of persons with disabilities, developmental as well as purely physical. The project will collect and analyze demographic data, develop guiding principles for design of accessible facilities with a strategy for implementing them, and identify research and development needs to link the medical engineering community with the building and development community to provide appropriate environments. A workshop Feb. 11-12 will examine how accessible environments, as well as energy and environmental impact assessment (two other BRAB project areas), relate to the building process.

Mr. Dillon explained that "no single set of individuals is the predominant factor in determining what, where, when and how the majority of our man-made and man-affected environment is created and reshaped."

The second BRAB project, funded by the Architectural and Transportation Barriers Compliance Board, will identify deficiencies in federal facilities restricting use by handicapped persons, rank deficiencies by priorities, recommend functional requirements necessary to overcome the deficiencies, and assess design solutions that address these priorities. BRAB also hopes to suggest a mechanism to facilitate collection and distribution of information on environmental accessibility among government agencies and the building community.

Resources Exhibited at Conference — and Where to Obtain Them

ABRA! — Series of seven slide presentations on Architectural Barrier Removal for All, with cassettes and scripts (1975) — $500 set, $87.50 each; rentals and loans planned
ABRA! Project, East Central University
Ada, OK 74820

Access Chicago — Graphics depicting specifications for accessibility
Access Chicago, Rehabilitation Institute of Chicago
345 East Superior Street, Chicago, IL 60611

Access '76: A Blueprint for Action — A report on methods for eliminating or modifying architectural barriers in Greater Boston's historical and cultural sites
Easter Seal Society for Crippled Children and Adults of Massachusetts and United Community Planning Corporation
14 Somerset Street, Boston, MA 02108

Architectural and Transportation Barriers Compliance Board — leaflet describing Board's mission
Architectural & Transportation Barriers Compliance Board
330 C St., S.W., Washington, D.C. 20201

Barrier-Free Design: Accessibility for the Handicapped, by Phyllis L. Tica and Julius A. Shaw (1974) — $1.50
Institute for Research and Development in Occupational Education, City University of New York
1411 Broadway, New York, N.Y. 10018

Barrier Free Design — Report of a United Nations Expert Meeting on Architectural Barriers and Disabled People (1975) — $5
Rehabilitation International
122 East 23 St., New York, N.Y. 10010

Barrier Free Design Graphics, by Robert A.L. Williams — Michigan Labor Department's Construction Code Commission "General Rules" applicable to making facilities accessible — $2
League-Goodwill, Department 1000
1401 Ash St., Detroit, MI 48208

Barrier Free Site Design — Illustrated manual developed by American Society of Landscape Architects Foundation under HUD contract (1975) — $2.30 — Stock No. 023-000-00291-4
Superintendent of Documents
Government Printing Office, Washington, D.C. 20402

Code and Regulations Center (leaflet)
American Institute of Architects
1735 New York Ave., N.W., Washington, D.C. 20006

Design for the Disabled — illustrated manual
College of Architecture and Urban Studies
Virginia Polytechnic Institute and State University
Blacksburg, VA 24061

Illustrated Handbook of Handicapped Section of North Carolina State Building Code, by Ronald L. Mace (1974) — $1.50
North Carolina Department of Insurance
P.O. Box 26387, Raleigh, N.C. 27611

Into the Mainstream: A Syllabus for a Barrier Free Environment, by Stephen A. Kliment (1975) — Prepared under grant to American Institute of Architects from Rehabilitation Services Administration
Rehabilitation Services Administration, HEW
330 C Street, S.W., Washington, D.C. 20201

Removing Architectural Barriers: An Illustrated Handbook of the 1973 New Mexico Uniform Building Code (1975)
Division of Vocational Rehabilitation
New Mexico Department of Education
P.O. Box 1830, Santa Fe, N.M. 87503

People Are Asking About . . . Displaying the Symbol of Access

Analysis of Data on Legislation and Standards in 50 States

International Symbol of Access

Highway Rest Areas for Handicapped Travelers — Guidebook of Accessible Rest Areas in 49 states

All above are available from
President's Committee on Employment of the Handicapped
Washington, D.C. 20210

National Policy on Barrier Free Design

Wheelabout Garden (primarily for wheelchair gardeners)

Bibliography of Recent Publications Relating to Architectural Planning for the Physically Handicapped

You Can't Get There From Here

Wheelchair Interiors — illustrated 46-page booklet, $1.50

Accessibility — The Law and the Reality — A Survey to Test the Application and Effectiveness of P.L. 90-480 in Iowa

Report on the Standards Revision Project (Syracuse University) — Phase 1: A Review of Current Literature

All above are available from
National Easter Seal Society for Crippled Children and Adults
2023 West Ogden Ave., Chicago, IL 60612

This Conference Report is published as part of REPORT, a bimonthly newsletter issued by the National Center for a Barrier Free Environment, 8401 Connecticut Avenue, Washington, D.C. 20015

Publications

Three New Publications. To help communities provide specialized transportation and living arrangements for severely handicapped individuals, United Cerebral Palsy Associations, Inc., 66 East 34 Street, New York 10016, has published three separate publications. "Handbook on Transportation" is a manual for local organizations interested in starting specialized transportation service for clients ($1). "No Place Like Home" describes, with case histories, a variety of alternative living arrangements for persons with cerebral palsy ($2.25 each). "Housing for Disabled Persons" is a valuable annotated bibliography prepared for UCP by the Department of Special Education and Rehabilitation of Hofstra University (available free).

A Look at Campus Life. A new booklet that provides a tour of about a dozen colleges and universities, as seen through the eyes of handicapped students, has been published by the President's Committee on Employment of the Handicapped, Washington, D.C. 20210. Entitled "First Ponder, Then Dare," the publication gives a brief account of student activism that resulted in increased opportunities for handicapped students to study and learn on an integrated basis. The booklet takes a look at some of the steps these campuses have taken to remove barriers and provide support services so that a college education can become accessible to severely disabled students. Copies are available upon request.

Housing Conference Report Available: A limited number of copies of the Proceedings of the first National Conference on Housing and the Handicapped are still available at $2 each prepaid from Health and Education Resources, Inc., 9650 Rockville Pike, Bethesda, Maryland 20014. The conference was convened by Goodwill Industries of America September 10-12, 1974 in Houston.

Old Jersey and New Jersey. First the old: *Access in Jersey*, a 68-page guide for disabled people visiting this Channel Island has just been published. Based on a survey carried out by a team that included six people in wheelchairs, the book includes useful pointers on tourist attractions, public transport, shipping and eating facilities — all from the point of view of a handicapped person. It is available free of charge from The States of Jersey Tourism Committee, Weighbridge, St. Helier, Jersey, C.I.

Now the news from New Jersey: A package of five barrier-free bills was signed into law by Governor Byrne in one fell swoop. They include laws governing accessible construction of public school buildings, a revised public building code, provision of special parking spaces, curb cuts, and permanent registration as absentee voters for physically disabled persons. Watching an example of government in action at the signing ceremony in the Governor's office were members of the fourth grades from the Asbury school system. It's never too early to get acquainted with barrier-free design.

The National Center for a Barrier Free Environment is open to all who are concerned with environmental barriers. Membership includes a subscription to REPORT and other materials and services provided by the Center. All members will receive a printed membership certificate. The Center is a private, nonprofit corporation, and all subscriptions are tax-deductible.

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Government Action

Summit Meeting Planned. President Gerald Ford has announced that the White House Conference on Handicapped Individuals will be held in December, 1976 in Washington, D.C. This meeting, mandated by Public Law 93-516 passed over a year ago, is intended to provide a national forum for assessing the problems of the handicapped and to develop recommendations for solutions. Before the national meeting, a series of State conferences will be held to assist in determining the agenda and priorities of the national meeting. The Act authorizes a grant of up to $25,000 for each State for this conference, with $2 million authorized for the national conference.

One area in which the conference is expected to consider strategies and new developments is the problem of environmental barriers, whether the result of architectural or transportation design. A task force has been appointed from among the 28-member National Planning and Advisory Council to develop this session. Henry Viscardi, Jr., of Kings Point, N.Y., has been appointed Chairman of the Council, and Jack F. Smith of Rochester, N.Y., has been named executive director of the planning staff. Headquarters for the White House Conference is 1832 M Street, N.W., Suite 801, Washington, D.C. 20036.

Legislation

To Make the Postal Service Conform. Rep. William Lehman (D-Fla) has introduced legislation to make post offices accessible to handicapped persons. The bill would compel the Postal Service to comply with the 1968 Architectural Barriers Act which requires that all Federally funded public buildings be accessible. When the Postal Service was reorganized in 1970, it was exempted from compliance with many Federal laws, including the Architectural Barriers Act. As a result, Congressman Lehman said in introducing the bill, "our handicapped citizens are denied equal access to facilities that were built and paid for from their tax dollars as much as from the tax dollars of all our other citizens." The bill is H.R. 10385.

Civil Rights for the Blind. Sen. Claiborne Pell (D-R.I.) has introduced legislation (S.2478) that would prohibit common carriers from refusing to accept blind persons as passengers, and prohibit owners or operators of public accommodations from refusing to admit or serve blind persons. Owners or operators of housing facilities would likewise be prohibited from discriminating against blind persons nor could they charge additional fees for possible damages that might be caused by dog guides.

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Mr. NOAKES. Given our focus on environmental barriers, the center will direct its testimony to those sections of the Rehabilitation Act of 1973, as amended, that relate to the Architectural and Transportation Barriers Compliance Board. Clearly the interests of the center closely parallel those of the Board. We see our own role as providing a coordinating and connecting mechanism between consumers, the private agencies that serve them, and the design professionals who create the buildings and hardware with which they live. The Board functions in much the same role as an interface between the consumer and the Federal Government. The National Center in its private sector role strongly supports the Board in its Federal role and is committed to cooperating fully with the board as it works toward fulfillment of its legislative mandate.

With the establishment of the Board, a potentially powerful tool was created for opening up the resources and facilities of the Nation to its physically handicapped citizens. We endorse the concept of compliance enforcement as a necessary function of the Federal Government in view of the very significant role and impact of Federal programs and funding in the development of the physical fabric of America. The Board, we believe, holds the promise of bringing about compliance with the intent of Federal legislation on architectural and transportation barriers.

Further, the National Center has full confidence in the level of abilities and the motivation of the staff assembled under the direction of the Board's capable executive director, James Jeffers. The combined experience and knowledge of the professional staff comprises an invaluable resource for the agenices and departments which they are intended to work.

Thus far, however, the Board has failed to live up to the expectations of those who support it most strongly. While the record compiled in only 2 years of existence, the last year of which was devoted to building up staff, is not sufficient to warrant final judgments, it does present evidence on which to base preliminary observations and recommendations.

There are indications, for example, that the basic structure of the Compliance Board may well lead to a lack of vigor and effectiveness. The composition of the board itself, made up of coequal members representing executive departments and agencies, means to many of us that this body contains the seeds of inaction. The individual agencies on the Board may themselves be the targets of a compliance action which they could dilute or over which they could exercise veto power. It is thus not difficult to foresee a quite natural reluctance to pursue affirmative Board policies and programs that may conflict with an individual agency's own program policies and priorities. This, of course, suggests that the policies themselves may well be limited in order to contain and restrain such actions.

This concern leads us to suggest that consideration should be given to the concept of a more fully independent Board. While we do not propose the actual form it should take, we do know what its functions should be—the elimination of barriers in buildings and transportation systems, wherever and however Federal funds are involved. We see independence as being the most promising key to implementation of effective policies and programs to this end.

A second area of concern relates to the need for the Board to establish a hierarchy of goals. The original directives provided by Congress are broad, they are comprehensive, and generally without a clear enunciation of priorities. Lacking such priorities in its mandate, the Board has now set in place a skeletal staff capable of limited performance on all fronts. It is a shotgun where a rifle is needed. If it was indeed the intent of Congress that the Board should bring about fully accessible and usable facilities, then the actual review of these facilities in the various stages of program, design, and construction should be the primary thrust of the Board's activities. It does not appear that this objective is recognized as such.

If Federal facilities erected subsequent to the passage of Public Law 90-480, the Architectural Barriers Act, had been designed and built in accordance with the standards adopted by the General Services Administration, the concern that led to the establishment of the Board itself would not have existed. Efforts would have been directed at improving the design standards themselves, not at the lack of compliance with them. But that concern did exist, and reports like "Accessibility: the Law and the Reality," a study prepared at the request of the President's Committee on Employment of the Handicapped by the Iowa chapter of the American Institute of Architects, the Iowa Governor's Committee on Employment of the Handicapped and the Iowa Easter Seal Society, clearly documented the fact that compliance is the problem. I would again ask permission to enter this document into the record.

[The information referred to may be found in the files of the subcommittee.]

Mr. NOAKES. The recent GAO report to Congress on accessibility of Federal structures reached the same conclusion. New design standards are now in preparation and will be published within the year, but in the meantime millions of square feet of Federal space are being built and leased across the land without the benefit, even of consultation, let alone compliance review, by the Board. It is not possible to estimate the cost to the public of remodeling these new structures after they are completed, when the complaints start coming in.

Up to this time, the Board does not seem to have attached particular importance to the development of compliance review systems. We heard this morning of that operation just being initiated. While this may, at least in part, be attributable to funding constraints, the fact remains that of 11 staff members now employed by the Board only 1 is fully qualified to review designs for compliance. The public information, education, and research functions of the Board which account for the bulk of its staff are important to its work, but must be addressed within the context of the Board's primary mission.

We suggest that the role of the Board needs redefinition and that firm priorities should be established for achieving the central goal of making Federal facilities accessible. The complementary activities that enhance and supplement the basic compliance role can then take place within a phased development program that recognizes constraints of time, staff and budget.

The Board is, by definition, concerned with transportation as well as buildings, but it has not yet had an impact on programs of the Department of Transportation. To those of us who have worked to remove barriers for the past 10 years, transportation has been by far the most intransigent problem. We watched Washington's own Metro ignore 2 separate pieces of legislation before the case was successfully pressed in court; we are repeating the cycle with the next generation of public buses under the developmental aegis of the Urban Mass Transportation Administration. The one bright light is the proposed performance standard of UMTA's small bus program. They did indeed start with access and all the other design constraints fell into place readily. Perhaps the efforts over many years of the President's Committee on Employment of the Handicapped are now bearing fruit. Surely the Board should be an active participant in these efforts and in other programs under the Department of Transportation. To date, not even consultation has been sought by the Department of Transportation and responsible design review by the Board's staff is an idea still waiting for its time. Accessible mass transit is an unmet need of such far-reaching importance that it cannot be swept aside. We would urge the Board as its second highest priority to bring about a close and effective relationship with the Department of Transportation that will open up transportation systems to anyone who is mobile, whether that mobility comes from a walker, crutches, artificial limb or wheelchair. This goal is easily realizable in design, but the design will not happen without policy and the policy is not there.

We have proposed that the Board's highest priority should be the establishment of its compliance procedures. In developing this capability we would suggest one or a combination of the following methods should be considered:

One: Employ and train design review experts here and in the 10 Federal regions.

Two: Train design reviewers in other departments.

Three: Train and hire outside consultants.

In such matters, the center would like to offer its assistance and, in particular, that of one of its founding members, The American Institute of Architects.

In closing, may I repeat that we believe the most pressing problem facing this Board is the acceptance of its own compliance authority by the member departments and agencies that constitute its membership. We feel that the resolution of this problem is one of the major tests of the appropriateness of its present structure and the legislation on which it is founded.

Mr. Chairman, we sincerely hope that these comments may prove both useful and germane to your purposes.

Thank you.

Mrs. Forsythe. Thank you, Mr. Noakes.

Senator Stafford will be back shortly, he has asked that we proceed.

Mr. Noakes. Thank you.

Mrs. Forsythe. Mr. Kent Hull.

STATEMENT OF KENT HULL, STAFF ATTORNEY, NATIONAL CENTER FOR LAW AND THE HANDICAPPED, INC., SOUTH BEND, IND.

Mrs. Forsythe. Mr. Hull, staff attorney for the National Center of Law and the Handicapped, Inc.

Mr. Hull. We have previously filed with the committee a written statement which I would like to have made a part of the record at this time and my remarks will be a synopsis and condensation of that written statement.

The National Center for Law and the Handicapped is privileged to have this opportunity to testify before the Senate Subcommittee on the Handicapped. The Rehabilitation Act of 1973 has been regarded by disabled people as one of the most important pieces of legislation in our nation's history. The civil rights provision for the handicapped brings the disabled within the law when they have been so long outside of the law. It establishes that because a man is blind or deaf or without legs, he is not less a citizen, that his rights of citizenship are not revoked or diminished because he is disabled.

The act as originally passed and amended by the Congress had a number of fundamental goals. It sought to encourage the development and implementation of rehabilitation services for all handicapped persons, but particularly to extend services to severely disabled persons who had not been served in the past. It further sought to encourage rehabilitation agencies to serve disabled persons who might not be able to have vocational goals in the traditional sense, but who could nevertheless benefit from appropriate rehabilitation programs. Finally, the act sought to encourage and to provide a means of coordinating the technical and scientific research to meet the needs of disabled persons in a wide range of matters from medical research to engineering and design studies of architectural and transportation barriers.

It was clear from the beginning that the act envisioned a major commitment of public resources to aid disabled individuals and to bring the handicapped into the mainstream of American society. As Senator Randolph stated during subcommittee hearings: "They will have the opportunity—and they will embrace it—of a more self-sufficient life." Later Senator Stafford voiced a similar view in expressing the legislative intent when he said "The concern of this subcommittee during its deliberations on the Rehabilitation Act of 1973 was the development of each handicapped individual's full potential." The rationale and justifications for such a national commitment to the needs of disabled people was eloquently summarized in a statement before this subcommittee by the American Speech and Hearing Association:

> [Rehabilitation] is not to be supported because it pays back to American tax payers every dollar they put into it—or even because, and this is nearer reality, the return represents five or ten times the investment. Rather it is to be supported and its growth carefully, thoughtfully, and creatively nurtured, because it is right in terms of American society, in terms of human concern for our fellow citizens, and in terms of contributing to our nation's strength and well-being.

Given this legislative background, the antidiscrimination provisions of the Rehabilitation Act can be seen in both their practical and idealistic dimensions. From a practical standpoint, it simply made no sense to commit the Federal Government to a substantial program to integrate disabled people into American society without providing complimentary authority to prohibit discrimination in the Government's own personnel practices and its own building projects, in addition to prohibiting discrimination in its contractual agreements and grant programs.

From an idealistic standpoint, perhaps the Congress, by enacting the antidiscrimination sections, sought to set an example for the Nation, particularly those private sectors which have not treated disabled people equally. Long ago Justice Brandeis observed that government—for good or ill—is a teacher of society and that society will imitate what it learns from government. The same point was emphasized more recently by the Supreme Court when it stated that:

> Government is the social organ to which all in our society look for the promotion of liberty, justice, fair and equal treatment, and the setting of worthy norm and goals for social conduct. *Adickes* v. *Kress*, 398 U.S. 144, 190 (1970).

These concerns were the genesis of the antidiscrimination sections, especially section 504 which prohibits discrimination in federally funded programs. It is clear from the Congressional Record, particularly in the remarks of Senator Cranston, that the framers of the section envisioned a vigorous implementation of section 504. The similarity of section 504 to section 601 of the Civil Rights Act of 1964 and section 901 of the Education Amendments of 1972 was emphasized. The desire of the sponsors to see an effective compliance program was made explicit. And the option of an ultimate judicial remedy through private action was noted. Senator Stafford also drew attention to similarities to existing civil rights legislation, which he stated:

> It was the committee's intent that the enforcement under sections 503 and 504 (sic) would be similar to that carried out under Section 601 of the Civil Rights Act and 901 of the Education Amendments of 1972.

Today it is apparent that the potential impact of the antidiscrimination section is far from being realized. There will, of course, always be the courts from which relief may be sought, and at this point it should be mentioned that the courts are increasingly receptive to 504 cases. Partially on the basis of section 504, a Federal district court in Milwaukee recently granted a preliminary injunction prohibiting the acceptance of bids by the transit authority for an order of buses which would not have provided service to disabled riders. In Ohio, a Federal court decree enjoined a State university from refusing to allow a partially sighted student to play basketball and in West Virginia a Federal district court has interpreted section 504 to preclude a school district from segregating a handicapped child from classes with nonhandicapped students where the handicapped child was capable of taking part in regular classes.

And increasingly, section 504 is being relied upon in challenging employment discrimination in federally funded programs.

The failure of the Office for Civil Rights of the Department of Health, Education, and Welfare to promulgate regulations to enforce section 504 and otherwise to implement that statute was recently criticized by over 50 organizations concerned with the effective enforcement of Federal civil rights laws. That such difficulties in implementation would develop might have been expected, given the history of the Architectural Barriers Act of 1968. In recommending that the Architectural and Transportation Barriers Compliance Board be created, the House Committee on Education noted that "compliance with the Federal architectural barriers statute has been very spotty and there is no appropriate compliance unit in existence at the present time." "Spotty compliance" is, of course, a euphemistic way of saying that there has been massive noncompliance with a Federal statute whose purposes were reasonably explicit, defined, and limited. It should be no surprise then when difficulties arose in implementing the antidiscrimination provisions of the Rehabilitation Act, a statute which has far greater ambiguity and far greater potential for reversal of past practices. The hearings conducted by this subcommittee on the 1974 amendments to the Rehabilitation Act reveal the emergence of difficulties in implementing section 504. HEW assurances that the regulations were forthcoming are implicit in letters to the subcommittee from Undersecretary Carlucci and Secretary Weinberger. Yet committee attempts to pin down the efforts undertaken to enforce section 504 were met with equivocal and noncommittal answers.

The problems involved in implementing section 504 are not by any means limited to HEW. Consider, for example, the position taken by another federal agency effected by Section 504, the Urban Mass Transportation Administration. There is presently a lawsuit pending in the U.S. Court of Appeals for the Fifth Circuit involving the failure of UMTA to make adequate provision for the mass transportation needs of disabled persons in a federally funded grant to the Birmingham-Jefferson County, Alabama Transit Authority. The disabled plaintiff asserted a claim under section 504, since she was obviously suffering discrimination in the administration of this federally funded grant. UMTA's response to the 504 argument is that the statute is nothing more than a declaration of national policy that handicapped persons are not to be discriminated against in federally funded programs, with administrative discretion vested entirely in the respective agencies administering the program to implement the requirements of section 504. UMTA also contends that primary responsibility for implementing the antidiscrimination provision of the act rests with the Compliance Board and the Office for Civil Rights. Since the Compliance Board is just beginning its efforts and since OCR has yet to make its presence felt, UMTA concludes that since no one else is doing much of anything about section 504, they are not required to do much. If the UMTA attitude should prevail throughout the executive branch, section 504 is doomed as an effective tool to aid disabled people.

The problem in implementing section 504, very simply, seems to be that the administrators cannot believe that Congress really meant what it said. It is clear that doing away with discrimination against disabled persons as required in section 504, is going to be a complicated and expensive job. We are sure that the Congress, in enacting section 504, understood the great tasks ahead. No one can condemn the executive agencies for not finding simple solutions to difficult problems. But we might have expected that, in wrestling with their difficulties, the administrators would have advised the Congress and the disabled community of their progress and sought out, in public forums, the best thinking available on the issues. Only the Architectural and Transportation Barriers Compliance Board has made any real effort to do this. The other agencies have just told Congress and the disabled community to sit tight, keep the faith, and wait. In doing so, they have reinforced the old stereotype that disabled people are not really very important and that the benefits the disabled receive are at the discretion and option of able-bodied society.

The answer is not just for OCR to promulgate regulations, although, of course, it is essential that the regulations be written. Nor is the answer necessarily more personnel, although if there is such a need, and apparently there is a need in the Compliance Board, Congress should meet the need. We need, not only regulations, but also department policies that will require substantial efforts to be made by Federal agencies and grantees to end discrimination. We need not just more personnel in the agencies, but people who are willing and able to devise effective and speedy enforcement mechanisms to administer the law. You may be sure that the heaviest burden of implementation will rest with the Government, since few disabled individuals and groups have resources available to enforce section 504 by private lawsuits.

It may be that the burden of implementation will finally rest on this subcommittee, which has already done so much for disabled people. It may be that the subcommittee should consider inquiries to each Department and Agency to determine what they have done to implement section 504 and to dramatize to all the agencies the seriousness of the Congressional purpose. But it is clear that something must be done immediately. In establishing administrative regulations the agencies and this subcommittee must be sure that the regulations are written so as to truly aid the enforcement process. They must not result in imposing lengthy and complicated administrative exhaustive requirements which will impede the private right to bring lawsuits under section 504. The subcommittee might also consider a provision allowing courts to award attorney's fees to plaintiffs' attorneys in 504 cases; such an allowance might encourage private attorneys to bring actions to enforce the law. Furthermore, the subcommittee should urge OCR to undertake the investigation of individual complaints because, in doing so, OCR will develop the experience and awareness about these problems to promulgate better regulations.

When President Nixon vetoed the original Rehabilitation Action in 1972, he referred to the possibility of "cruelly raising the hopes of the handicapped in a way that we could never responsibly hope to fulfill." Although he was speaking in the context of the fiscal spending levels involved, there may be some truth in that statement for our purpose today. If section 504 is not enforced, there will be among disabled people a powerful and overwhelming reaction. They will fight back in the Courts and at the polls. But the hopes raised by this important law will be realized much later than they would have been if the original intent of Congress were fulfilled. I can assure you that NCLH is always ready to assist the subcommittee and the agencies in the task ahead. The issue deserves the greatest cooperation of all concerned.

That concludes my remarks.

Mrs. FORSYTHE. Thank you very much.

We do have one or two questions to ask. How many lawsuits are pending on accessible mass transit systems?

Mr. HULL. I would estimate between 10 and 12. I could provide that information for you in more detail later. I can off the top of my head list some of the cities if you would like to know now.

Mrs. FORSYTHE. That would be helpful.

Mr. HULL. Milwaukee, Minneapolis, San Francisco, Chicago, Detroit, Seattle, Honolulu, Austin, Birmingham. The Birmingham case is presently on appeal to the U.S. Court of Appeals for the Fifth Circuit. And I am sure I have left out one or two but I can provide the information.

Mrs. FORSYTHE. We would appreciate that.

[The following information was subsequently supplied for the record:]

Lawsuits Currently Pending on Accessible Mass Transit Systems

Bartels v. *Biernat*, 75–C–704 (E. D. Wisconsin), preliminary injunction granted to plaintiffs on December 24, 1975. (Milwaukee, Wisconsin)

Snowden v. *Birmingham-Jefferson County Transit Authority*, 75–3411 (United States Court of Appeals for the Fifth Circuit), pending on plaintiff-appellant's appeal from the District Court's grant of summary judgment to defendants. (Birmingham, Alabama)

Bohlke v. *Golden Gate Bridge Highway and Transportation District*, 73362 (Marin County Superior Court, California), pending on state statutory causes of action after the Court granted defendants' demurrers to causes of action based on the Rehabilitation Act of 1973, the Urban Mass Transportation Act, and the equal protection claims of the state and federal Constitutions. (San Francisco, California)

Disabled in Action v. *Hughes*, 74–1069 (D. Maryland); this case was dismissed by consent after the parties reached an agreement to provide some limited mini-bus service. Our last information was that there were difficulties in implementation of the agreement, but we know of no further proceedings. (Baltimore, Maryland)

MIGHT v. *Briscoe*, A 75 CA 31 (W. D. Tex.). This case is being held, pursuant to the District Court's order, in abeyance pending disposition of the *Snowden* case in the Fifth Circuit. (Austin, Texas)

Michigan Paralyzed Veterans of America v. *Coleman*, 571–114 (E. D. Michigan), proceeding to trial with parties engaged in pre-trial activities. (Detroit, Michigan)

Lloyd v. *Illinois Regional Transportation Authority*, 75–C–1834 (N.D. Illinois), pending on defendants' motions for summary judgment. (Chicago, Illinois)

Webb v. *Miami Valley Regional Transit Authority*, C–3–75–67 (S.D. Ohio), summary judgment granted in favor of the defendant transit authorities on January 19, 1976, although the Court noted that, as a result of the suit defendants agreed to provide some service to handicapped persons and awarded $1,000 attorney's fees to plaintiff's counsel. We are advised that plaintiffs have decided not to appeal. (Dayton, Ohio).

Abilities Unlimited, Inc. v. *Villegas*, 75–0003, (D. Hawaii), since receiving a copy of the complaint we have not learned of further disposition of this case. (Honolulu, Hawaii)

Martin v. *Seattle-King County Metropolitan Transit Commission*, 795–806 (Superior Court of King County Washington), this case based entirely on state law, in on appeal to plaintiff to the Washington Court of Appeals, after an adverse trial court ruling for further documents on the case. (Seattle, Washington)

Urban League v. *Washington Metropolitan Area Transit Authority*, 776–72 (D. District of Columbia), still pending on the issue of whether the transit authority is in compliance with the District Court's order mandating "ready access" for disabled people. (Washington, D.C.)

We have just today learned of a decision in Minneapolis, *United Handicapped Federation* v. *Andre*, 4–75 Cir. 627, (D. Minnesota, February 24, 1976) in which a preliminary injunction was denied to plaintiffs. I hope this information is helpful to the Subcommittee; if we may be of further assistance, please contact us.

Mrs. FORSYTHE. Do you believe that given the mandate of section 504, the Department of Transportation could interpret UMTA section 16 so that blind persons and those in wheelchairs could be excluded from the mass transit systems?

Mr. HULL. If I understand your question, it is, whether under the mandate of section 504, could UMTA interpret section 16 to allow exclusion of blind persons?

Mrs. FORSYTHE. Yes, and those persons in wheelchairs.

Mr. HULL. No, I do not believe that UMTA could in any event with or without section 504 justify that exclusion.

Mrs. FORSYTHE. Thank you very much, Mr. Hull.

I believe there may be other questions of the members of the subcommittee which will be submitted to you and you can respond in writing if you would, Mr. Hull.

Mr. HULL. Thank you.

Mrs. FORSYTHE. Thank you for your testimony. It was excellent.

[The prepared statement of Mr. Hull follows:]

PREPARED STATEMENT OF KENT HULL, STAFF ATTORNEY, NATIONAL CENTER FOR LAW AND THE HANDICAPPED, INC., SOUTH BEND, IND.

The National Center for Law and the Handicapped is privileged to have this opportunity to testify before the Senate Subcommittee on the Handicapped. The Rehabilitation Act of 1973 has been regarded by disabled people as one of the most important pieces of legislation in our nation's history, a civil rights act for the handicapped and a congressional prohibition of second class citizenship for disabled people.

The Act was, from the beginning, a major commitment of public resources to aid the disabled and to bring them into the mainstream of American society. Its early purposes were to redirect the efforts of rehabilitation agencies to meet the needs of previously unserved, severely disabled persons and those who could not meet the traditional rehabilitation requirement of vocational goals. Motivating this great reform was the recognition by Congress that such encouragement to rehabilitation was justified not only in economic terms of helping individuals become more productive, but because it was morally right in terms of human concern and in terms of our nation's well-being.

Given this legislative background, the anti-discrimination provisions of the Rehabilitation Act can be seen in both their practical and idealistic dimensions. From a practical standpoint, it simply made no sense to commit the federal government to help the disabled achieve their full potential while not providing complimentary authority to prohibit discrimination in public programs and practices. From an idealistic standpoint, perhaps Congress sought to set an example for the private sectors of our country. Long ago, Justice Brandeis observed that government—for good or ill—is a teacher to society and that society will imitate what it learns from goverment. Government, as the Supreme Court has said more recently, is the source to which all our citizens look for the promotion of liberty, justice, fair treatment and the setting of worthy social norms.

These concerns were the genesis of the anti-discrimination sections, especially Section 504 which prohibits discrimination in federally funded programs. It is clear that the authors of Section 504 envisioned implementation of the statute similar to that carried out under the Civil Rights Act of 1964. Today it is clear that this Congressional hope is far from being realized. Yet it should be mentioned that the courts have been increasingly receptive to cases brought under Section 504. Partially as the basis of Section 504, a federal district court in Milwaukee recently granted a preliminary injunction prohibiting the acceptance of bids by the transit authority for an order of buses which would not have provided service to disabled riders. In Ohio a federal court enjoined a state university from refusing to allow a partially sighted student to play basketball and in West Virginia a federal district court has interpreted Section 504 to prohibit the segregation of handicapped children from non-handicapped students when a handicapped child is able to participate in regular classes. It should also be mentioned that Section 504 is being used increasingly in employment discrimination cases against federally funded programs.

These court victories are in sharp contrast to the administrative lethargy which dominates the federal agencies charged to enforce Section 504. The failure of the Office for Civil Rights of the Department of Health, Education, and Welfare to promulgate regulations to enforce Section 504 and otherwise to implement that statute was recently criticized by more than 50 informed and concerned organizations. That such difficulties could arise might have been apparent from the history of the Architectural Barriers Act of 1968. In justifying creation of the Architectural and Transportation Barriers Compliance Board, the House Committee on Education noted that "compliance [with the federal architectural barriers statute] has been very spotty." "Spotty compliance" is, of course, a euphemistic way of saying that there was massive noncompliance. It should have been no surprise then when difficulties arose in implementation of the Rehabilitation Act of 1973 anti-discrimination sections, provisions which have greater ambiguity and greater potential impact.

The difficulties in implementing Section 504 are not by any means limited to HEW. Consider, for example, the Urban Mass Transportation Administration. In litigation pending across the country challenging the UMTA practice of granting federal funds for mass transit projects which make no adequate provision for transporting disabled persons, UMTA's response to arguments made under Section 504 is that the statute is nothing more than a declaration of national policy (not a law with teeth in it), vesting administrative discretion entirely in the respective agencies administering various programs to implement Section 504. UMTA also contends that primary responsibility for implementation rests with OCR and the Compliance Board. Since the Compliance Board is just beginning its efforts, and since OCR has yet to make its presence felt, UMTA concludes that it is not required to do much. If the UMTA attitude should prevail throughout the executive branch, Section 504 is doomed as an effective tool to aid disabled people.

The problem in implementing Section 504, very simply, seems to be that the administrators cannot believe that Congress really meant what it said. It is now clear that implementation will be a complicated and expensive job. We are sure Congress understood that. We do not condemn the agencies for failing to find simple answers to difficult problems. But we do criticize some of the agencies for not being more open with the Congress and the public in their attempts to find answers. Only the Compliance Board has made any real effort to do this. The other agencies have told Congress and the disabled community to sit tight, keep the faith, and wait. In doing so, they have reinforced the old stereotype that disabled people are not really very important and that the benefits the disabled receive are at the discretion and option of able-bodied society.

The answer is not just for OCR to promulgate regulations, nor is the answer necessarily more personnel for the agencies. Of course, it is essential that the regulations be announced, and where more personnel are needed (such as in the Compliance Board), that need should be met. In our written testimony we have made several suggestions to the Subcommittee. Among them are that, in considering the OCR regulations, the Subcommittee insist that the regulations truly be directed toward administrative convenience and not result in imposing burdensome administrative exhaustive requirements preceding the right to sue; second, that the Subcommittee consider amending the statute to allow an award of attorney's fees in 504 litigation; and third, that written interrogatories be sent to each department asking for detailed information about implementation policies. Additionally, the OCR should be encouraged to investigate and resolve individual complaints of handicapped discrimination, because in doing so, OCR will develop experience and knowledge to better implement Section 504. Most importantly the Congress must dramatize the seriousness of its intent in enacting Section 504.

When President Nixon vetoed the original Rehabilitation Act in 1972, he referred to the possibility of "cruelly raising the hopes of the handicapped in a way that we could never responsibly hope to fulfill." Although he was speaking in the context of the fiscal spending levels involved, there may be some truth in that statement for our purpose today. If Section 504 is not enforced, there will be among disabled people a powerful and overwhelming reaction. They will fight back in the Courts and at the polls. But the hopes raised by this important law will be realized much later then they would have been if the original intent of Congress were fulfilled. I can assure you that NCLH is ready to assist the Subcommittee and the agencies in the task ahead. The issue deserves the greatest cooperation of all concerned.

Mrs. FORSYTHE. We now have a panel, the American Coalition of Citizens with Disabilities and The American Council of the Blind.

Mrs. Fiorito, would you identify the two persons accompanying you and then you proceed to chair the panel.

STATEMENT OF EUNICE FIORITO, PRESIDENT, AMERICAN COALITION OF CITIZENS WITH DISABILITIES, WASHINGTON, D.C.; ACCOMPANIED BY REESE H. ROBRAHN, DIRECTOR OF RESEARCH, AMERICAN COUNCIL OF THE BLIND; ROGER PETERSON AND DIANE LATTIN, BOARD MEMBERS, AMERICAN COALITION OF CITIZENS WITH DISABILITIES, A PANEL

Mrs. FIORITO. Thank you very much.

Pat—Mrs. Forsythe, I guess it should be—to my left is Reese H. Robrahn who is director of research for the American Council of the Blind. Mr. Robrahn assisted us in the preparation, the technical preparation of our presentation and is here to present the position of the American Coalition of Citizens with Disabilities and also the position, specific positions of the American Council of the Blind.

For the record, the American Coalition of Citizens with Disabilities would like very much to thank the American Council of the Blind for their efforts and participation in the swift reproduction of the testimony which you have before you which is in no way complete. Unfortunately, we did not receive an invitation to testify here until February 17 which was dated the 13th of February; as you recall, that was a holiday; it was a holiday and weekend in between, thereby not allowing us to produce the extensive piece of testimony that we would have liked.

On my right is Mr. Roger Peterson. Mr. Peterson is a board member of the Coalition of Citizens with Disabilities and functions as a volunteer staffer of our organization.

In the room also, I do believe, is another member of the board of directors of the American Coalition of Citizens with Disabilities, Miss Diane Lattin who is here functioning on her employment assignment of covering the hearing.

As is obvious to all of you on the panel the three of us are visually impaired—in layman's terms, blind. This does not indicate in any way any preference or priority of problems of that specific disability but essentially demonstrates the fact that we are here today as we are the only ones that have been able to be available to come to testify; and in view of our disability so that I do not feel and the two people on the side of me do not feel as if we are talking to the wall, perhaps you might do us the courtesy of identifying who is sitting up on the panel.

Mrs. FORSYTHE. Pat Forsythe, Staff Director of the Subcommittee on the Handicapped and Michael Burns who is the Staff Assistant to the ranking minority member, Senator Stafford.

Also present are other staff members—Senator Stafford is just about to join us at this moment, having come back from voting.

Mrs. FIORITO. Pat, would it be possible for us just to identify who the staffers are; not so much in terms of their names but what Senators they are representing, please?

Senator STAFFORD. This is Senator Stafford.

Mrs. FIORITO. Thank you, Senator Stafford.

Senator STAFFORD. I am from Vermont.

Mrs. FIORITO. I know you.

Senator STAFFORD. Some allusion was made this morning about the skiing conditions up there which was off the record.

With me is Michael Burns of my staff.

Was there something else you wanted to know?

Mrs. FIORITO. I really wanted to know who the other people are up there. As you know—As I said earlier as you were walking in——

Senator STAFFORD. I will tell you. We will ask everybody to identify himself and staff assignment.

Mrs. FIORITO. Thank you very much, I am sure.

Senator STAFFORD. We will start to your right.

Ms. WALKER. Lisa Walker, with Senator Williams, Labor Committee.

Ms. HETHERINGTON. Jo Hetherington of the Subcommittee on the Handicapped.

Mr. ANDREWS. Jack Andrews of the Committee on Labor and Public Welfare.

Ms. GOEDDE. Mary Goedde, and I work with Senator Taft.

Mrs. FIORITO. Senator who?

Ms. GOEDDE. Senator Taft.

Mr. HUMPHREYS. Bob Humphreys of the Committee on Labor and Public Welfare.

Ms. HOCUTT. Anne Hocutt of the Subcommittee on the Handicapped.

Senator STAFFORD. That seems to be the cast of characters up here.

Mrs. FIORITO. Thank you very much, Senator. We certainly appreciate that.

As president of the American Coalition of Citizens with Disabilities and obviously a newcomer to the scene of coalition activities, a movement on the part of people with disabilities, I first of all want to thank openly Senator Randolph and yourself, Senator Stafford for the leadership that you have shown and interest and concern on behalf of people with disabilities. We should like for you to take back to the other Senators and perhaps even the Senators who did not send staff persons here today the fact that we of the disabled movement have some questions about the—"I guess the Senator put it in this morning"—the intense interest of members of the committee.

When we say that, we mean that there are 11 members on this committee and yet, there are staffers here from only four members of the committee. We would raise the question as to where and why they are not here. Certainly the American Coalition of Citizens with Disabilities will be advised accordingly to that effect.

As you can see, I have put a tape recorder on. The tape of my presentation here and your questions to me will not only be a part of your record but will be a process of accountability of myself and my board to our 30 organizations throughout this country, as to who is truly intensively interested in people with disabilities. It was also said earlier that the Rehabilitation Act of 1973 and its amendments of 1974 was a remarkable piece of legislation and we, the disabled of this country numbering at least 28 million strong, agree, and had faith that perhaps this legislation was to be the turning point in providing a service delivery system with a dignity that would meet our needs.

For those of us who have gone through the system we know what it meant to suffer; we joined together in the Coalition so that our brothers and sisters who followed us would not have to encounter the same kinds of indignities. We, the disabled, as you will recall, marched on Washington, had demonstrations to override the vetoes of our previous President. Yes, you and we, were successful and that law and its amendments were passed. But unfortunately the administration has not implemented the law as you produced it and as we understood it.

As president of the American Coalition of Citizens with Disabilities within the past 8 months, I, like you, have traveled all over the country to meet with the consumers, the disabled who do not have the resources or the wherewithall to be here today and unfortunately most of the disabled who, because of shortness of time do not even know these hearings are being held. And those consumers are the ones who have asked us to be here today to tell you, in accordance with the letter that you had sent to us, what we feel is going on and what does need to be rectified.

Ladies and gentlemen, the American Coalition of Citizens with Disabilities recognize and does want to compliment the Senate, particularly the Subcommittee on the Handicapped for its recent activities and also for perhaps its demonstration of its commitment to hold these oversight hearings. We do believe that there is somebody out there who is listening to the cry in the wilderness. However, we would question what is going to happen with that cry, what is your time frame and time table, what are your goals and objectives in the next several months so that what you have heard here today and on Monday and on Tuesday and on last Friday and the letters you have undoubtedly received in the past will not just lie around dormant, so that there will be action on what you have heard, and what you will be hearing.

I will raise that, and ask you that when we finish perhaps you can address that particular question.

We, the disabled of this country, had anticipated that titles I, II, and III, we would have had a role to play for we feel that we have much to contribute. A written rehabilitation plan in title I, for example, was given and that written rehabilitation plan essentially still does not provide a mechanism whereby the disabled individual is not only involved in the process, but truly receives the kind of service that he needs.

In some of the other aspects of these three titles there is no provision for a mechanism whereby the disabled can have an input in the policy development and determination on a Federal level in the Department of Health, Education and Welfare. We have recommendations to do so. We have seen that there have been many reports that were mandated under the present legislation such as the report and the study which probably cost more than $1 million on the severely handicapped. Yet we, the disabled, in spite of five letters to the Secretary have been unable to see the results of the study that was on our lives, and we implore that you give your assistance in getting from the Secretary that piece of material so that we, too, can know what in fact some other groups thought about us and what should be done for us.

In Title IV, for example, we had the creation of the Office for Handicapped Individuals. You are familiar with that. We, the disabled, thought that this Office would be able to assist in the planning and coordination of services and programs on all levels within the Department of Health, Education, and Welfare. We also thought it would be able to establish an information service or network that would be a source whereby we could obtain the necessary information. Instead, and in contradiction to what you put into the record, the Office of the Handicapped Individuals now sits within the Office of Human Development rather than where it should be in the Office of the Under Secretary of Health, Education, and Welfare so that it could in fact be involved with planning and with coordination of the $20 billion that HEW itself spent annually to provide services and programs for disabled people throughout the entire department. Why, I ask you, has that not been done? Why have we, and that means you and me, the citizens of this country and you as our representatives, allowed this to happen? It must be rectified, rectified clearly in future legislation and not in the congressional intent.

We established last year through your efforts the creation of the White House Conference on the Handicapped. For the first time we thought and we believed that the disabled of this country would have an opportunity to participate in the long-range planning to meet our needs. That the administration and the country, including our Congressmen and Senators, would finally be able to get together in terms of looking at our needs, our problems, and the issues that affect us, and to develop an administrative, as well as a legislative strategy plan for what in fact needs to happen over the next 10 years to improve the lot of people who are disabled. What we got is an office with a great director and staff which is on loan from other departments, and those who administer programs know very well that such persons often come there because they want to get out of where they are or because they have been assigned because somebody else wants to get rid of them and there are very few presently that are there because they either know or truly are involved and care about our problems.

Why is that? It is because of the money. And yet, for all of the appropriations, for all of HEW amounts, you have allowed the administration to settle for less than that which you have appropriated. For the Architectural and Transportation Compliance Board—let me go back—I am sorry. Let me finish in terms of Office of Handicapped Individuals.

We have a couple of million dollars, or $1.3 million, I believe, that is not for staffing; it is to carry out programs. You gave an extension and you were gracious enough in your wisdom to know that it was necessary. Yet, in fact, there was no extension of funds to cover the extension of time. Yes, these are hard times, but they are not hard times for other people outside of the handicapped. We must begin to rectify this kind of thing.

We heard earlier a discussion on title V, on the Architectural and Transportation Barriers Compliance Board. The American Coalition of Citizens with Disabilities feels that here again it is disgraceful, and again, we have been given crumbs by this administration in the sum of $300,000 to run a program that you, yourself, appropriated $1, I believe, $1.5 million. You yourself did that and yet we, that is you and I, are letting the administration slide by in its allocations for this program. That office, we do believe quite strongly, is inappropriately placed. It is inappropriately placed and also has very limited powers. The people who are on that Board are making decisions among themselves, and there is no way to regulate and to develop real compliance efforts within this country. We are recommending very strongly two things for improvement of section 502:

No. 1, that the appropriation be increased to its fullest, the $1.5 million. That is the way we can find out what is going on in this country and bring about some needed change, so in fact disabled people can be a part of our society and be treated with dignity and with equality.

No. 2, within section 502 we are also stating that the curfew be removed from this Board of HEW, and not be responsible to the Secretary of the Office of Human Development. That is not where you put it. It belongs in the law we do believe, in the Office of the President within the Domestic Council whereby it can have a political influence and impact on what happens in this country.

In addition, we are saying that the Board should be comprised of not only in-house people, but that it should be comprised of in-house people, providers, and consumers. In that fashion, we do believe, that at least the Board and its well-intended staff will be able to carry out in fact what needs to be done.

We have heard today about section 504 and its lack of implementation. The question my organization has asked me to raise to the entire society and not only to you, is if we were people with power and money would not those regulations have been out before? It is now more than 2 years and we are all piddling around and saying, please put them out. Why can we not mandate, why can you not put in a piece of legislation that within 180 days those regulations will be out? In any piece of legislation in the future, let us learn from our mistakes in the past, that this must be done.

We have got to be able to move. There is no arbitration, there is no system for us except the administrative system in the implementation of section 503. We do not have any recourse, we do not have any advocates, we have something that we feel should be implemented—I am sorry—should be put into a piece of legislation whereby we will have recourse through an arbitration system and further recourse to the courts, so that when we do go to the courts we will not be questioned as to whether or not we have the right to be there.

In section 501, another piece of legislation, part of this legislation that we thought was going to improve the employment of disabled people in the Federal Government; What has come out, has been two reports from the Civil Service Commission. Both of these reports do not really say what in fact the problems are. They do not tell you what the issues really are, what needs to be done, what are the recommendations. They mainly tell us what great things on paper are being done. That must be changed.

The Civil Service Commission must be mandated by you in a law to put forth recommendations which are also public and a plan for the change, the solution of those employment problems. Also, we must have recourse to a system outside of the Civil Service Commission when we, the disabled, know that we have not been treated justly.

I know that I have talked mainly about some of the problems. The American Coalition of Citizens with Disabilities has been in contact with some of the staff of the Senators' offices, particularly that of Senator Randolph and Senator Williams. We will be submitting additional testimony. Actually, we had some discussions about writing, presenting, and actual legal terminology of what we want and what we feel should go into it. And as a demonstration of the intense interest of this committee, and as a demonstration of the real faith and concern that you have for disabled people, you said that you offered yourself, your staff to meet with us to discuss this in a face-to-face situation. We the citizens of this country, the members of the American Coalition of Citizens with Disabilities would like for you to meet with us as you had expressed so that we can bring to our constituency your real demonstration of your true faith and interest.

Before I close, I would like to turn the mike over for just a few brief minutes to Mr. Robrahn to continue in a less emotional state than I have a little bit more of our recommendations as are stated in our statement.

Mr. Robrahn?

Senator **Stafford**. We would be glad to hear him.

Mr. **Robrahn**. Thank you very much, Senator.

If I were asked to characterize the amendments which have been filed in the written statement which is a joint statement of the American Council of the Blind and the American Coalition of Citizens with Disabilities, I would have to say that the character of those amendments is to produce legislation which will provide for a greater participation and involvement of citizens with disabilities or handicaps from the top to the bottom, overall, in the program of rehabilitation in this country.

In doing that we must say that we are of the conviction that if this democratic system of government of ours is to continue to grow and to be viable and to serve the needs of the citizens, because of its great complexity and because of its sheer bigness, meaningful ways must be found to involve the citizenry in the governmental processes. We are firm in that conviction and therefore I will touch briefly on some of the major amendments that we propose which would accomplish this.

We are proposing an amendment to the act which would provide for a State Planning Council in each of the States. The membership of that planning council would have to have on it a majority of persons who are handicapped or disabled. And that the planning council would have the function and authority, among others, to assist in the preparation and design of the State plan, State rehabilitation plan; and that planning council would have the power and authority to approve that plan before it was submitted to the Secretary of HEW for final approval.

It would also provide that it must be established that adequate staffing is provided for this planning council so that it can adequately carry out its functions.

The next step up, then, we are proposing an amendment to create a National Advisory Council on Services and Facilities for Handicapped Individuals. This will be on the Federal level. The membership of this Council would be comprised as follows:

Nine ex officio members who would be top level administrators of agencies and departments that conduct programs which are of concern to persons with handicaps.

In addition it would have 16 appointive members, the majority of whom again must be handicapped individuals. The function of this advisory council would be not only to advise and consult with the Secretary, but to be charged with the duty of assessing and evaluating all of the programs, including the application for and review of grants.

One of the important functions would be to make an annual report to Congress and, significantly enough, not through the Secretary but directly to the Congress.

Another important thing that we feel is absolutely necessary would be another proposed amendment which would establish a mandate that each State must have an advocacy system for the handicapped which would be charged with the duty of protecting and enforcing the rights of handicapped individuals. And that proposed amendment would require that that advocacy system in each of the States would be a separate and independent entity from any State department or agency or any organization which provides rehabilitation services or services to handicapped individuals.

Now going further, under the provisions of 501 there is a section which establishes an Interagency Committee on Employment of the Handicapped within the departments and agencies. That committee is made up of high level persons in the government, the heads of departments and agencies.

As Mrs. Fiorito has alluded to, very little has been accomplished under section 501, and we are proposing an amendment that requires that at least five additional members would be added to this committee and that those five members would be persons with disabilities or handicaps. We feel that the presence of such persons on that committee would stimulate the committee to perform the functions that were intended by the Congress.

Mrs. Fiorito also alluded to the fact that under 501, 503 and 504 we are proposing, requesting an arbitration system, and in 503 it would be an elective and alternate procedure rather than the procedure now provided in 503. And I might add that the arbitration system which we have proposed is similar to that which was adopted in the Randolph-Sheppard Amendments which are part of the 1974 amendments to the Rehabilitation Act. However, we believe that we have greatly improved the arbitration system as proposed in the

Randolph-Sheppard Amendments because we have included a timetable within which the arbitration must be completed. That is to say, specific times are set out for certain things to happen, such as the appointment of the panel members and so on.

But ultimately it provides the decision of the panel must be made no later than 90 days after the filing of the complaint.

And, of course, in every instance there is provision for judiciary review.

In the case of the arbitration panel under section 504, the complaint would be filed with the Secretary of HEW, in the case of 503, the Secretary of Labor; in the case of 501, the Chairman of the Civil Service Commission.

We feel that this mechanism, while it would not establish rights as securely as in the Civil Rights Act, title VI, nonetheless we feel it would provide a speedy and efficient mechanism whereby handicapped persons who believe their rights were violated under the provisions of any of these three sections, would have available to them a means by which they can have their grievance and their complaint heard in an evidenciary hearing and a decision made concerning the complaint in a very short and reasonable time with access, then, to review by the courts.

There are a number of other amendments, which we are proposing. There simply is not time for me to review all of them. But I would simply say that some of the things we are proposing are in concurrence with other witnesses who have appeared here.

Again, I want to reiterate the fact that we, in our written testimony, ask leave to file within a reasonable time additions to the written testimony and amendments to it. I would like to indulge the committee a little further with a short commentary and exhortation at this time.

In this year of the Bicentennial celebration of the founding of this Nation, I think it behooves us all, whether we do so as individual citizens or practitioners of political science and government or no matter what our station in life, to take a good hard look at ourselves, our roles in the governmental processes of this democracy. I think that perhaps it was fortuitous that we had an incident like Watergate with all of its revelations and ramifications because I think they have served to wake us up. I think that students of political science and government, philosopher, historians and many citizens of this Nation have come to the realization that for several decades the people of our Nation were so concerned with status seeking and acquisition of material things for the sake of accumulating material things that we lost sight of the vision and pioneering spirit and creativeness and innovative bent with which the leaders and founders of our Nation were imbued, and those who followed them, who brought this Nation to the greatness that it has.

Now, however, as I have said, during the last several decades we have lost that vision. I am a lawyer myself and served on the bench for 8 years and perhaps I have some bias in the matter. When I think of the three branches of Government in those decades, it has been the judiciary branch that has been creative and innovative. In fact, some quarters would say they were so enthusiastic in their zeal that they sometimes indulged in legislation themselves. But be that as it may, I would hasten to add that I also believe that within the last decade or so there has been a reawakening of that pioneering spirit and creativeness, and innovativeness in the Congress and the legislative branch of the Government. But, unfortunately, when Congress forged out a progressive and innovative piece of legislation, the Executive branch received it, sat on it, indulged in all kinds of delays, dampening and tampering with it, from impounding funds to cutbacks on personnel to sheer neglect to issue guildelines and promulgate rules and regulations. And more frequently than not, when the guidelines were ultimately issued and rules and regulations were promulgated, their design was not to implement and carry out the intent of the Congress but just the opposite. Too frequently they were designed to thwart the intent of Congress and dilute the effect of the legislation.

So I exhort you and all the members of the committee who are not present, the members of the full committee and every Member of the Congress to join hands with the innovators and creators in the judiciary branch of the Government and exercise that wisdom that is worthy of posterity.

I ask you to help this generation in our country to become known for posterity's sake as the generation that emancipated handicapped citizens.

Now, what we are proposing in the way of amendments to the Rehabilitation Act of 1973 constitutes but a very small few steps in the right direction. If we are to reach our ultimate goal to complete the emancipation of handicapped citizens there must be and will be much, much more.

We have alluded to the number of handicapped citizens in the United States and the numbers are significant. A high percentage of those handicapped individuals are severely handicapped who are chronically the poorest of the poor and who are chronically in need of medical treatment and care and who, day in and day out, face discrimination in employment, housing, public accommodations, and virtually every aspect of social intercourse. So much so that the suffering of discrimination is almost a way of life with many of us.

I believe that a nation with the wealth that this Nation possesses and its heritage can no longer afford to ignore the needs of this segment of its citizenry.

Thank you very much.

Senator STAFFORD. Thank you for your very helpful statement to the subcommittee.

President Fiorito, does your other colleague have a statement he wishes to make or put in this record?

Mrs. FIORITO. Roger?

Mr. PETERSON. I have no statement. I would be happy to assist in answering the questions.

Senator STAFFORD. Well, we can assure you that we will keep in close touch with you. We appreciate your being here. We very well may submit some questions to you in writing for a response and the Chair wants you to know that we appreciate how much the coalition has done in helping to bring to our attention problems facing the nation and the handicapped, problems under the present act. It seems to me that you have accomplished a great deal as a group, especially in the light of the period of time that has been available to you.

I do want to remind you before I close this meeting that there have been a number of hearings before this subcommittee on previous days at some length and so that everybody here will be on notice the Chair will announce now that on March 30 and 31 there will be 2 additional days of hearings and it is the subcommittee's intention that every interested person who wishes to be heard by the subcommittee have a chance to do so and having announced that, the Chair finally wants to thank Mr. Noakes for staying here through the balance of these hearings so he would have the benefit of testimony of the witnesses who are here and we thank Mr. Noakes for your work on the Capitol as well.

But Mrs. Fiorito, did you have something you wished to add?

Mrs. FIORITO. Thank you for recognizing me, Senator. Yes. In light of the hearing scheduled for the 30th and 31st of March does that mean therefore that also written testimony will be accepted until that date from persons or organizations who have, who may not be able to have the wherewithall to get to Washington for such hearings?

Senator STAFFORD. Certainly.

Mrs. FIORITO. Thank you very much.

My second question is—perhaps I asked it before you arrived. Is there a time table of, or a plan of action following the 31st day of March that could be shared with us at this point?

Senator STAFFORD. All we can tell you at this point is on that date if it appears to the subcommittee—and I think I can speak for the chairman as well as myself—that if more hearings dates are necessary we will schedule them then. As I said we want all interested parties who should be heard to have a chance to be heard and anybody who cannot appear in person who wishes to send in a written statement individually or through organizations can do that also. We will hold the record open for that purpose beyond the 31st of March in any event.

Mrs. FIORITO. Thank you.

[The following material was subsequently supplied for the record:]

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
MAYOR'S OFFICE FOR THE HANDICAPPED

ABRAHAM D. BEAME
Mayor

EUNICE FIORITO
Director

250 BROADWAY
NEW YORK, N.Y. 10007
Telephone: 566-0972

MAR 29 1976

March 24, 1976

Received
Date 3/29/76
Subcommittee on
The Handicapped

Hon. Jennings Randolph
Chairman
Subcommittee on the Handicapped
Dirksen Office Building Room 5121
Washington, D.C. 20510

Dear Senator Randolph:

Enclosed are copies of our testimony concerning the Rehabilitation Act of 1973 and its amendments of 1974.

I have enclosed copies for the other members of the subcommittee.

Sincerely,

Eunice Fiorita
Eunice Fiorito
Director
MAYOR'S OFFICE FOR THE HANDICAPPED

EF:ah
Encs.

THE MAYOR'S OFFICE FOR THE HANDICAPPED

of the

CITY OF NEW YORK

Statement
to the
Subcommittee on the Handicapped
Committee on Labor and Public Welfare
U.S. Senate

PROPOSED AMENDMENTS TO THE REHABILITATION ACT OF 1973

Preface

The Mayor's Office for the Handicapped has now been in existence for nearly three years. During this period we have dealt with most of the cri critical issues facing disabled people nationally as well as locally. We have also been in contact with a wide range of consumer leaders and providers both in our own region and from across the country. As a result of this experience, we have been able to arrive at certain conclusions concerning the status of disabled people and their problems.

The conclusions we have reached are as follows:

a. The systems which have been created to assist disabled people do not inter communicate with any consistency and regularity. This has led to gaps in service, irregularity in goals and objectives, and fractionalization in how program effect and impact upon individuals. It has also contributed to duplication of services, including research and demonstration projects at enormous economic expense to the tax payers.

b. The system which have been created to assist disabled people do not communicate with, seek imput from, or utilize disabled people with any consistency or regularity. This has led to resentment and hostility on the part of disabled people towards their service components. It also also has set negative examples for the general public and private industry who are being asked to "hire the handicapped."

c. The systems and programs for disabled people have grown increasingly complex and difficult to understand. This has led to increased bureacracy, less responsiveness to the individual client, and more misunderstanding as to the rights of individuals within the systems etc. The administrative costs have also increased due to this factor making the programs and systems more expensive but without making them more comprehensive or in many instances more effective.

d. Environmental problems are still beyond the scope of present systems for disabled people. This has led to self defeating efforts in many instances for many programs. The problems of transportation, housing, public attitudes, recreation, and legal services have not been dealt with in any serious way by any branch of government thus causing programs in rehabilitation and education in particular to suffer greatly.

e. There are no accurate sets of statistics presently available that planners can use for comprehensive and effective program planning in housing, transportation, and recreation. Since these areas have significant impact on other systems and are of course critical in their own right, the lack of precise information makes reliable planning on impossibility.

These conclusions reflect problems where no institutional solutions have been augmented to any appreciable degree. Their implications on the lives of disabled people have a major impact on the shape of our recommendations for the Rehabilitation Act.

The Rehabilitation Act of 1973 and Amendments of 1974.

Passage of these two Acts was accompleshed with the assistance of thousands of disabled citizens professionals, and service providers from all parts of the country. For many disabled people it was the first time they had ever participated in so intimate a way with the national political process. For most of these people the Rehabilitation Act was and still remains the sole major legislation with the most impact upon their lives. The services rendered throught the various titles literally can mean the difference between a dependent or independent life.

One of the major problems which has surfaced with the present act revolves around those sections which have not been implemented according to the spirit and intent that was understood at the time of passage. One section (504) has yet to have finalized regulations issued for it. Other sections have insufficient funds appropriated for their implementation while the actual authorization of the act resides at far higher levels. Other sections need a more realistic staffing component to make its progrms viable. In still other instances the regulations promulgated do not go far enough in meeting the intent of the legislation and need to be corrected by new more specific amendments.

I. STATE PLANNING COUNCIL FOR REHABILITATION

a. A State Planning Council should be established in each state.

b. This Council should be composed of 51% disabled individuals, who are not employees of state agencies.

c. The Council's function would be to:

1. develop and approve the State Plan
2. develop an accountability system for the implementation of the plan
3. monitor the plan
4. evaluate the plan
5. evaluate 3rd. party contracts
6. investigate funding alternatives
7. review and comment on all state plans which relate to disabled people
8. submit to the Secretary of HEW through the Governor periodic reports on its activities as the Secretary may reasonably request.

d. This State Planning Council shall be composed of ex officio representatives of the principal state rehabilitation, educational, social service, transportation, housing, employment, civil service and human rights agencies in addition ot the 51% of the membership.

e. The consumer membership shall be appointed by the Governors of the respective states after consultation with a search committee composed of representatives of statewide consumer organizations.

f. The remaining 49% of this body shall be comprised of providers of service to disabled people from the private sector.

II. NATIONAL ADVISORY COUNCIL ON REHABILITATION

A. A National Advisory Council should be established under the direction of the Secretary of HEW.

B. Ex Officio members should include representation by:

the Office of Human Development
the Office of Education
the Administration on the Aging
the Rehabilitation Services Administration
the Department of Health
the Social Security Administration
the Veterans Administration
the Department of Transportation
the Department of Labor
the Department of Hosuing and Urban Development

C. The function of the Council would be to :

1. evaluate rehabilitation policy

2. assist in promulgating regulations

3. study and review contracts programs and grants made under this act

4. study and review State Planning Council reports

5. prepare an annual report for Congress evaluating the implementation of the Act

6. prepare legislative recommendations for the Secretary

7. advise the Secretary of HEW and all other departments relating to this Act with respect to any regulations promulgated or proposed by the Secretary of HEW or any of the respective Secretary's in the implementation of this Act.

D. There would be 16 appointed members of this Council of which 14 shall be disabled individuals and 2, providers of services.

E. These members would be appointed by the Secretary of HEW for rotating terms of no more than 4 years at one time without consecutive reappointment.

III. CLIENT ASSISTANCE PROGRAMS

A. client assistance programs shall be established in each state

B. They shall concern themselves with the problems and issues of

1. architectural barriers

2. statistics on disabled people on a state by state basis regarding

    a. number
    b. sex
    c. age
    d. disability
    e. functional disability
    f. educational situation
    g. employment situation
    h. housing situation
    i. medical situation
    j. income situation
    k. transportation-mobility situation
    l. program situation

    (The state's statistics programs shall be coordinated by the Department of Commerce, Bureau of Statistics)

3. Legal rights and Legal services.

4. Housing and Community design

5. Job Development

C. These client assistance programs shall be funded on a matching basis between the state and federal government with matching funds on a 90% - 10% for the first year (Federal-State) 80% - 20% the second year, and 70% - 30% the third year.

IV. SCOPE OF VOCATIONAL REHABILITATION SERVICES

A. The following services should be included to broaden the range of rehabilitation services.

1. Funding for Consumer run student organizations.

2. Legal services (including para-legal counseling) for disabled people.

3. Peer counseling

4. Funding for staffing consumer organizations in relation to grants, projects, and contracts under this act.

5. post-employment services
    - i. attendant care
    - ii. transportation assistance
    - iii. readers
    - iv. low interest loans for purchase of aids and/or transportation equipment
    - v. interpreters for deaf individuals
6. consumer run facilities

In short consumer run ortanizations would become eligible for grants, contracts, and projects offered under the act. The Secretary of HEW would make a special effort to seek out and solicit the involvement of consumer run groups in all phases of the act. The State Planning Council would monitor and evaluate the projects, contracts, and facilities operated by consumer groups as well.

V. RESEARCH GRANTS

A. Consumer run organizations should be included in all research projects as advisors.

B. Consumer run organizations should be included in the list of organizations eligible for grants.

C. Funds should be made available for consumer run organizations to study and research the services, programs, and activities of consumer-run organizations and provider services in Foreign countries.

VI. OFFICE OF THE DEAF AND COMMUNICATION DISORDERS

A. There should be a specific mandate for this office in the new act.

B. Specific functions should be outlined.

C. Specific staffing and budget should be outlined.

D. Specific relationships to other agencies should be spelled out.

VII. SECTION 501 ARBITRATION PANEL PROCEDURE

A. An arbitration panel procedure must be included within the new rehabilitation act and section 501.

B. The process would be as follows:

1. A complaint is filed by individual to the Chairman of the Civil Service Commission.
2. The complainant appoints an arbiter.

3. Within 15 days the defendant agency appoints an arbiter.

4. Within 15 days the two arbiters appoint a third arbiter.

5. If an arbiter fails to be appointed within 15 days at any point the Secretary will appoint an arbiter.

6. Within 40 days of the filing of the complaint a hearing shall be held, a ruling shall be forthcoming within 90 days of the complaint which shall be subject to judicial review.

VIII. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

A. The current Board should be transferred from HEW and put under the direct responsibility of the Domestic Council within the Office of the President.

B. This Board shall be composed of various representatives from national consumer organizations. These consumer representatives shall comprise 51% of the total Board membership.

C. The remaining 49% of the Board membership shall be composed of representatives from National provider organizations.

D. The following Federal Agencies shall have ex-officio membership on the Board.

   i. HEW
   ii. HUD
   iii. DOT
   iv. DOD
   v. DOC
   vi. DOI

E. The functions and duties of the Board shall be to:

   1. develop and promulgate standards promoting accessibility in buildings and facilities owned and/or operated by the Federal Government.

   2. Review and comment on proposed regulations.

   3. Monitor the design and construction of Federally funded and/or subsidized buildings and facilites.

   4. Prepare a report to the President and to the Congress regarding the Board's activities, findings and recommendations.

F. This Board must be convened at least four times a year.

G. Appropriations must be increased to the authorization levels mandated by the act to enable the Board to function as intended.

IX. SECTION 503 ARBITRATION PANEL PROCEDURE

A. An arbitration procedure which is optional on the part of the complainant must be included within Section 503.

   1. A complaint is filed with the Secretary of Labor.

   2. Procedure follows same process as Section 501.

X. SECTION 503 AFFIRMATIVE ACTION

A. An outreach program to disabled people should be established

   1. to inform them of their rights

   2. to seek out complaints.

B. A pre-contract and post contract review should be established.

C. Fund for a minimum of 150 staff should be authorized and appropriated (this assumes a concomitant increase in budget size for the administration of the program.

D. The current complaint process must be shortened and modernized.

E. There shall be judicial review of both the arbitration process and the current "revised" standard procedure.

XI. EXTERNAL CONSUMER COUNCILS TO OVERSEE THE DEPARTMENT OF LABOR AND THE DEPARTMENT OF TRANSPORTATION.

A. The Councils could study and evaluate grants, contracts, facilities and programs for disabled people which are operated by the two departments.

B. Regulations which would affect disabled people would be promulgated or proposed with the advise and comments of the council(s).

C. These councils would report to Congress.

D. The secretarys of the Departments would report to Congress with the knowledge of the Councils.

XII. SECTION 504 ARBITRATION PANEL PROCEDURE

A. An arbitration procedure must be instituted to help enforce this section of the law.

   1. A complaint is filed with the Secretary of HEW.

   2. The arbitration procedure follows the process for Section 501.

XIII. THIRD PARTY CONTRACTS

A. Third Party Contracts should deal with services only.

B. Overhead and administrative costs should be borne by the states.

C. Direct services should take precedent over third party contracts thereby limiting third party contracts not involved with direct services.

1. This limitation should be based on appropriate restrictions written into the act.

XIV. OFFICE FOR HANDICAPPED INDIVIDUALS

A. The appropriations for OHI should match the authorization levels of the act.

B. OHI must be removed from the Office of Human Development and placed in the office of the Under secretary for Planning and Policy Development within HEW in order to function in accordance with the law and congressional intent.

XV. COMPREHENSIVE REHABILITATION SERVICES

A. 100% funding for specially trained professional staff to deal with the needs of severely disabled persons. The funding would cover:

1. administrative costs
2. training costs
3. salaries and benefits
4. program costs

B. Establishment of a program for the rehabilitation of older disabled persons.

XVI. STATE ADVOCACY PROGRAMS

A. The Secretary of HEW shall require as a prerequisite to State funding that by an agreed upon date within the first funding year of the Act that the State will have in effect a system to protect and advocate for the rights of disabled citizens including recipients of service under this act.

B. This system will have as its function

1. the authority to pursue legal, administrative and other appropriate remedies to insure the rights and protections of individuals receiving services under this act and/or

2. represent any individual in this manner

3. be independent of any State agency receiving funds under this act.

C. $3,000,000 shall be appropriated for FY 77, 78, 79.

Senator Stafford. Now I think the Chair will announce that the hearing of the Subcommittee on the Handicapped of the Labor and Public Welfare Committee is in recess until March 31st.

[Whereupon, the hearing was concluded at 12:50 p.m.]

REHABILITATION OF THE HANDICAPPED PROGRAMS, 1976

TUESDAY, MARCH 30, 1976

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to notice at 9:30 a.m., in room 4200, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present. Senator Randolph.

Senator RANDOLPH. The subcommittee will please come to order.

Good morning, ladies and gentlemen. It gives me great pleasure to resume the oversight hearings on the Implementation of the Rehabilitation Act of 1973. As you know, we have scheduled 3 more days of hearings—today, tomorrow, and Monday, April 5; we shall begin at 9:30 tomorrow and Monday also. On April 5, we shall move down the hall to room 4232.

We are fortunate to have with us this morning witnesses who will speak to us on the subject of the impact of the Rehabilitation Act on deaf persons, on the close relationship between recreation and rehabilitation, on the great need for transportation which is accessible to everyone, and on the issue of wage supplements. In particular, I would like to welcome Mr. Bill Kilmer, quarterback of the Washington Redskins, who will speak to us on the need for recreation for the handicapped. It is always gratifying when I see someone who is such a leader and an inspiration to Americans take the time to address the public and the Congress on the important issue.

We were to have had the pleasure of receiving testimony from Senator Hubert Humphrey on his legislation, S. 2019, to provide for a program of wage supplements for handicapped individuals. Senator Humphrey has long been an advocate for handicapped people and was active in this field many years even before this subcommittee was created. Unfortunately, Senator Humphrey is unable to be present: however, he has written a letter which, together with his testimony will be placed in the hearing record at this point.

[The communication and statement of Senator Humphrey follow:]

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United States Senate
COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, D.C. 20510

March 30, 1976

The Honorable Jennings Randolph
Chairman
Subcommittee on the Handicapped
Committee on Labor and Public Welfare
4230 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

It is with deep regret that I cannot be with you in person this morning to present my views on S. 2019, a bill to provide a demonstration program of wage supplements for handicapped individuals in sheltered workshops.

Unfortunately, the Foreign Relations Committee has scheduled a business session at the same time. In addition, as Chairman of the Joint Economic Committee, I must testify before the Senate Appropriations Committee in support of fiscal 1977 budget needs of the JEC.

I respectfully request, however, that the enclosed testimony which I intended to present at this time be included in the hearing record.

With best wishes.

Sincerely,

Hubert H Humphrey
Hubert H. Humphrey

TESTIMONY OF SENATOR HUBERT H. HUMPHREY
BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

March 30, 1976

Thank you, Mr. Chairman, for giving me this opportunity to appear before the Committee. I am indeed pleased to participate in the oversight hearings on the Rehabilitation Act of 1973 and appreciate the opportunity to express my views on a program to provide wage supplements to handicapped individuals in sheltered workshops.

As you and distinguished members of the Subcommittee know, I have reintroduced an amendment to the Rehabilitation Act of 1973 which authorizes the Secretary of the Department of Health, Education and Welfare to conduct demonstration projects with public or private non-profit agencies or organizations to determine the feasibility of paying wage supplements to handicapped individuals employed on a long term basis in sheltered workshops or work activity centers.

It has been nearly 10 years since the concept of wage subsidies for severely disabled people in workshops was first articulated and documented legislatively. In 1967, the Secretary of Labor recommended that in order to achieve the goal of a minimum wage for clients in sheltered workshops, wage supplements should be considered. Again, in 1969 and 1972 this concept was endorsed by the President's Committee on Employment of the Handicapped and the Council of State Administrators of Vocational Rehabilitation.

I am very pleased that the Greenleigh Study, undertaken through the Department of Health, Education and Welfare in accordance with the Rehabilitation Act Amendments of 1974, has reinforced these views and concluded that a demonstration of the impact of wage supplements or subsidies should be undertaken through pilot projects.

For a long time our country has done little to aid handicapped individuals to achieve that measure of self-fulfillment of which they are capable. There has been a hidden assumption that the handicapped worker is a total invalid, that he cannot help himself, or that he must be protected from society or vice versa.

This is a costly conception both in terms of the human toll it takes on handicapped persons and their families, and in terms of the financial burdens it unnecessarily imposes on society.

The human dimension is paramount. One of the great political principles of our national life is that every person shall have an opportunity to achieve whatever degree of self-reliance and self-fulfillment of which he or she is capable.

People in workshops are highly motivated and already partially self-supporting. There is ample precedent for subsidy programs in this country. The question is why not a wage subsidy for disabled people who are working, but who cannot earn a decent living because of their handicap?

The other cost of failing to recognize the rights and opportunities for the handicapped is a social and financial cost. The work-related needs of approximately 140,000 severely handicapped persons are currently being served in over 2,700 workshops and work activity centers in the United States. Without those workshops, many severely handicapped individuals, unable to compete in the labor market, yet fully capable of performing in sheltered employment, would have to return to institutions where the average cost to care for that person is $40 to $60 per day, or become unproductive burdens on their families.

In this day and age, with increasing emphasis on alleviating poverty and discrimination in our country, it is time to rearrange our rehabilitation priorities to meet the very basic economic requirements of the handicapped working poor.

Subsidizing workers in a workshop helps make it possible for handicapped individuals to remain in the community and work. Workshop employment is more economical than institutionalization, and it is better for retarded persons than institutional life.

The Department of Health, Education, and Welfare, in transmitting the Sheltered Workshop Final Report to the Congress, agrees that in addition to potential economic benefits there are true social benefits to workshop employment which are almost impossible to measure but may be fundamentally as important. For many severely handicapped individuals, sheltered workshops provide the only means available for them to join the working community, irrespective of the level of their capabilities.

Such accomplishments may open a whole new life for many handicapped individuals and form the basis for self-respect and dignity. HEW thus rejected the

Study recommendation that individuals less than 30 percent productive should be placed in a non-work oriented institution.

What my proposal provides for is a series of pilot programs to study the advantages of a system of wage supplements which simultaneously provide an incentive to the worker to increase his productivity and a means to become self-sustaining.

Specifically, S. 2019 would provide the following mechanisms for wage supplements:

Every handicapped worker in a sheltered workshop would be provided with a wage supplement of $1 per hour in addition to his wage, up to and including the point where his wage reaches 50 percent of the minimum wage. For wages above that point, the wage supplement will be reduced 7 cents for each additional 10-cent increment in wages, with the entire wage supplement to be eliminated for any wage in excess of 100 percent of the minimum wage.

The great advantage of this formula is that there is no sudden cutoff point for the wage supplement, so that there is continuous incentive for the handicapped worker to increase his productivity. This incentive may well encourage him to achieve a level of productivity where he no longer requires the support of a sheltered workshop.

Mr. Chairman, it is important to understand that my proposal, as expressed by S. 2019, is merely one to determine the feasibility of a wage supplements program. It is not intended to supplant efforts to broaden the supplemental security income program or other income support programs. Neither is it intended to contribute to unfair competitive practices nor destroy the incentive of the handicapped worker.

We need to explore all possible avenues of assisting handicapped workers who are already employed and who need a further supplement to meet the economic needs of daily living.

Because of the long standing support for the concept of wage supplements in sheltered workshop employment and the widespread endorsement among various organizations serving the needs of the handicapped--the Council of State Administrators of Vocational Rehabilitation, the Association of Rehabilitation Facilities, the National Rehabilitation Association, Goodwill Industries, and United Cerebral Palsy, to name a few--I am hopeful that the members of this distinguished committee will give favorable consideration to S. 2019, my proposal to provide for such a program.

Thank you again for giving me this opportunity to appear before your committee today.

Senator RANDOLPH. To our other witnesses, let me say that I look forward to hearing their statements as together we seek ways of improving this legislation. We begin this morning with representatives of the Alexander Graham Bell Association, Teletypewriters for the Deaf, and the National Center for Law and the Deaf. Gentlemen, would you please come to the table and identify yourselves.

We will hear from our first panel of witnesses, Alexander Graham Bell Association, George W. Fellendorf, Ed. D. executive director; Teletypewriters for the Deaf, Inc., H. Latham Breunig, Ph. D., executive director; National Center for Law and the Deaf, Sy Dubow, legal director, accompanied by Laurie Farham.

At this juncture of the hearing, and I know she would not want me to say this, but I think that Pat Forsythe is very proficient in the special subject matter to which we address ourselves today.

Mrs. FORSYTHE. Thank you, Mr. Chairman.

Senator RANDOLPH. Mr. Fellendorf, I believe you are the first witnesses.

Give us a little background on your organization. It would be helpful for the record.

STATEMENT OF GEORGE W. FELLENDORF, ED. D., EXECUTIVE DIRECTOR, ALEXANDER GRAHAM BELL ASSOCIATION FOR THE DEAF

Mr. FELLENDORF. Thank you, Mr. Chairman.

I am George W. Fellendorf, and I am the executive director of the Alexander Graham Bell Association for the Deaf, which is an organization made up of deaf people, parents of deaf children, and professionals, who are concerned with helping deaf children.

We function as an information center with our major office located here in Georgetown, but our membership is all over the world. We have a great emphasis on the encouragement and development of oral communication skills, that is, speech, lipreading and listening, and we try to see that as many hearing impaired children as possible can benefit from this. We feel that a much larger number than is presently benefiting from this kind of program, could be doing so. On the other hand, we do not deny the value of certain other forms of communication to youngsters who can benefit from them.

Senator RANDOLPH. Also please give us the exact address.

I do this for I believe that often a reader of the hearing record may wish to go and visit the headquarters of an association or an organization.

Mr. FELLENDORF. I would be delighted to do that. The address is 3417 Volta Place NW, Washington, D.C. 20007. Telephone, 202-337-5220.

Senator, I might add, we would be delighted at some time if you have the occasion to visit with us. Our headquarters, the Volta Bureau, is a national historic landmark, and we would be delighted to have you.

I would like to point out that Dr. H. Latham Breunig and Kenneth Lane, a member of our staff, who are here today are both profoundly deaf individuals, who in a sense exemplify what we would like to feel what many deaf youngsters could become as adults. You will note they are reading lips, and are able to follow what is happening here today. Dr. Breunig, of course, will be testifying on his behalf, later today. He is the first deaf person to be president-elect of the Alexander Graham Bell Association for the Deaf. Thus this is an historic year; not only is it the 100th anniversary of the invention of the telephone, but it also marks the first time that a deaf person has become president of the Deaf Association, which was founded by Dr. Bell to do what I explained earlier.

Senator **Randolph**. There is a room in the old hotel at Harper's Ferry, W. Va., at the Hill Top House, where Dr. Bell used to come to rest a bit.

Mr. **Fellendorf**. It is news to me, Senator. I will have to go to Harper's Ferry. It is a delightful reason to go there.

Senator **Randolph**. You can talk to the proprietor of the old hotel on the point, and I think he would show you the room. The old register, if it is still there, indicates he was a guest on several occasions.

Mr. **Fellendorf**. Dr. Bell was a versatile man both in terms of the invention of the telephone, his emphasis upon the teaching of speech to deaf children, and in the many other areas in which he was engaged.

He was involved in heavier-than-air flight development in Canada and the hydrofoil boat. The iron lung was his conception also.

Senator **Randolph**. I heard a person one time say he was a modern Leonardo Di Vinci, because of the spectrum he covered in his creative thought.

Mr. **Fellendorf**. He was a remarkable man. I only regret I never had the opportunity to know him. Unfortunately he passed away before I was born.

The association is specifically involved in trying to encourage opportunities, and to provide resources to help hearing-impaired people become independent. In fact, we like to say, that the ultimate would be that our organization would in fact be out of business, if we were truly successful. If each hearing-impaired individual could become totally self-supporting, through access to public resources, and not necessarily have to rely upon private organizations we would be unnecessary. I should mention, Senator, that we are a private organization, and we are neither subsidized, nor supported by any agency of the Government, or other organizations. We are not an arm of the American Telephone & Telegraph Co., though it has been generous to us in many respects. We are strictly a private group.

Senator **Randolph**. What they would do would be in the form of gifts?

Mr. **Fellendorf**. They have not only made gifts, but as Dr. Breunig will testify a little later, they have been very generous in terms of helping to set up the teletypewriter system which has enabled deaf people to become communicators by the very instrument that Dr. Bell developed. I think Dr. Breunig in his testimony, will recite some of the background, which will be interesting, and will relate to this type of interest.

In the spirit of your opening remarks, Senator, I would like to make a few general observations, and then make some rather specific suggestions, in connection with the Rehabilitation Act of 1973.

With respect to section 102, where the individualized rehabilitation program is called for, we believe that there is a very positive and concrete step that has been taken through this act, but unfortunately we have yet to see very much evidence of it being implemented. We would like to endorse the idea that multifaceted services are required by severely hearing-impaired individuals, and for that matter, all handicapped individuals, with severe handicaps, that is, the idea of the multiple resources, and the concept of a weighted caseload quota system, is about 6 years old. At that time our organization under a grant from the Social and Rehabilitation Service produced a report entitled "Diversifying Job Opportunities for the Adult Deaf," in which we called out, after studying rehabilitation practices across the country, the fact that the rehabilitation counselors stated that handling a profoundly deaf person was a very difficult and time-consuming task. Thus today we would like to encourage specifically the reconsideration, if it has not already been done, of the weighted caseload system, which would recognize that some clients require a great deal more time to be handled properly. If the counselor is required to complete a certain quota of placements, it is very difficult to meet that quota, and still do an effective job with a severely handicapped person.

I recall some of the counselors in our study talking about what amounted to marital counseling, financial counseling, things of that nature, which were critical to the client, and which unforunately was not available if they had to fill a quota.

Senator **Randolph**. Not to break the continuity of your presentation, we have been doing at least a part of what you are suggesting.

We have sent many questions to Secretary Matthews, some concerning a weighted case closure system.

Perhaps you can help us in some of the questions you might like to have placed before him.

Mr. **Fellendorf**. I appreciate that slight interruption, and at the end of my remarks, I was going to compliment the committee, and the staff for its very effective technique of addressing a series of questions to the Secretary's office, because it is obvious that those questions reflect a great deal of thought, and practical experience. I think it is a very effective model for other committees and subcommittees to follow.

Senator **Randolph**. Thank you.

Mr. **Fellendorf**. With respect to section 102, and the evaluations, we feel it is obvious that there has to be an evaluation team. A method of establishing whether the clients are getting their statutory entitlement, appears to be yet to be developed. I think we will not see the true impact of the provisions of section 102, until we have some kind of evaluation mechanism, which eventually leads us to section 401, which I would like to address myself to in a minute.

Under section 103, telephone communication, sensory, and other technical aids and devices, this portion of the act clearly specifies that the intent of Congress is to help handicapped people be put in touch with the rest of the society, and one of those mechanisms for the hearing impaired is the telecommunications, or teletypewriter system.

This is a technique that was developed privately by a deaf engineer. To the best of my knowledge and belief, it was done without any access to Federal funds. It was strictly a private project. Dr. Whitebrecht and several deaf colleagues actually set up a firm to do this. It became known that these instruments were available, and they were enormously important to hearing impaired and deaf people, if for no other reason than simply to put them in touch with their employer. It gave them a way to get in touch, to advise if they are late for work, to set up appointments, to advise that they were ill, or something like this. To the best of my knowledge the Rehabilitation Service has given little or no attention to this in the way of support.

There are close to 10,000 TTY terminals now in this country as a result of private efforts. I personally am very much in favor of private efforts but I think there comes a point when to reach the individuals who would benefit from this, including those that are deaf, and perhaps indigent, it would really be a very exciting opportunity for RSA to undertake, and I certainly encourage this to take place.

I would also like to make reference in the way of sensory aids, to the communications skills program of RSA. This is a program which is basically addressing itself to the teaching of sign language, to both deaf people, as well as people who are in contact with deaf people, and I should say that I have no objections, nor does my organization to the idea of more people learning sign language to communicate with deaf people, who cannot communicate in any other fashion.

On the other hand, we feel that there is a lack of attention in this program, specifically, to the development of speaking and listening skills among deaf and hard of hearing. We have approached the communications skills program with ideas along this line, and we have been advised the primary focus is on teaching the skill of sign language.

Sometimes we have questions of whether some of these programs are stimulating more dependence rather than independence, in making a deaf person capable of communicating with the world and society in which he lives, through the means of communication which that society uses. It is a magnificent step forward in independence of that individual for example, there have been some studies done (Lunde & Bigman, 1959) which clearly emphasize that vocational growth and job flexibility are enhanced by those deaf persons who can speak intelligibly.

We realize that hearing aids are placed on some deaf people through RSA funds. We endorse this, but we would like to encourage the committee and the RSA to think of some of the 13 million other citizens who are not pre-vocationally deaf, of which we understand there may be 500 thousand in the population.

With respect to hearing aids, I have visited in Sweden, a small nation of only 8½ million people but I was much impressed with a system of rehabilitation services to hearing impaired individuals, in which the placement of a hearing aid on an individual is the first not the last step of the rehabilitation process.

In Sweden when the hearing aid is placed on a hearing deficient individual, he is introduced to various technical aids available from the State through State funding. The hearing aid user is introduced to the availability of light signals, of amplifiers on telephones, of devices to help him utilize the television and radio more effectively, so that the system of orientation to the hearing loss goes way beyond the simple placement of the hearing aid. I think we have yet to do in this country any kind of a oral communication, auditory oriented skill programs for the hearing impaired. We could achieve tremendous results, if we could help people, by giving them auditory skills, and then help them to use these skills in their daily lives.

Frankly, the whole philosophy of normalization which we see so prominent in some of the education laws, where reference is made to least restrictive environment, are good examples of how our nation is trying to work more and more to bring these people into society, and keeping them there, and then sustaining them in as an independent status as possible. We would like to encourage the RSA and the subcommittee to think in terms of maximizing those aids which make people more independent.

The final section I would like to comment on is section 401, dealing with the project evaluation. It appears it has yet to be accomplished. I noticed in your questions that the staff prepared, you are still asking Secretary Mathews' department if this in fact had been done. We have seen no evidence of it. In fact, I know our organization has not been invited to even review any proposed evaluation procedures that may have been drafted, and frankly, I think we would have some constructive suggestions to make, if asked.

It has been characteristic of witnesses before the Congress to come up and recite statistics to rehabilitations that have been made. Statistics that are prepared by the agency involved for delivering the services, and some of us have sat on the sidelines, and wondered whether these are truly accurate, and whether in fact the consumers have had an opportunity to have any input, in the evaluation of the services that have been delivered. I understand that GAO is looking into this situation right now. As far as we are concerned, a successful rehabilitation must be defined and evaluated by someone other than the agency responsible for delivering those services.

In our written testimony we made a specific suggestion under paragraph 401(c) where the law calls for comments of persons participating in or served by RSA, that in fact the law should be amended to require the inclusion of a representative sample of consumers. We feel that until the Rehabilitation Services Administration, has found a systematic way of getting input from its consumer-clients, it will not truly know how effective a job it is doing.

Senator RANDOLPH. We will include those as if read, and they will be made a part of your statement.

Mr. FELLENDORF. I will be happy to answer any questions now or later, and certainly, I would like to thank you for your invitation.

[The prepared statement of Mr. Fellendorf follows:]

Rehabilitation Act of 1973

Testimony before the Senate Subcommittee on the Handicapped

March 30, 1976

By

George W. Fellendorf, Executive Director
The Alexander Graham Bell Association for the Deaf
3417 Volta Place, N.W.
Washington, D.C. 20007

Mr. Chairman, and members of the Subcommittee, I am pleased to have this opportunity to appear before you on behalf of a group of severely handicapped persons in our nation, namely, the hearing impaired, who, in spite of varying degrees of disability, are in most instances capable of becoming self-supporting. The Alexander Graham Bell Association for the Deaf, a private, non-profit organization, with a regular and affiliated membership close to 10,000 professional teachers, parents and adult deaf persons, is committed to helping hearing impaired persons achieve independence and self support. In a very real sense, our ultimate goal is to reach the day when our organization will be unnecessary because all hearing impaired persons will be able to achieve independence through their own efforts with publicly supported services to assist them.

In this testimony I would like to refer to three sections of the Rehabilitation Act of 1973 as amended, namely, Sections 102, 103 and 401, and make some constructive suggestions as to future legislation and administrative action that might improve the impact of the Act upon the lives of all youth and adults, including the hearing impaired, who are covered by the law.

Section 102

In this section, which calls for individualized written rehabilitation programs for each applicant and client, there is not yet a clear expression of the intimate relationship between health care, rehabilitation and education, though such relationship is implied. The opportunity exists for this subcommittee, through this Act, to recognize that health care and education are a part of the rehabilitation process, that funds for health care, rehabilitation and education, particularly for the severely handicapped, should be readily available to the rehabilitation counsellor for the benefit of the client. A combination of services from a variety of public and private agencies, as well as from family and friends, is often necessary to meet the needs of the severely handicapped person. This need for coordination of multiple services involving more time on the part of the counsellor should be reflected in a weighted case load quota system as recommended almost six years ago in a study funded by the Social and Rehabilitation Service. (Atelsek & Mackin, 1971.)

There is little evidence that state rehabilitation personnel have taken seriously the provisions of Section 102 (b) wherein there is a call for annual review of the individuals written rehabilitation program, and such other details as are included in that section. The law, or the accompanying regulations, obviously need some evaluative "teeth" to permit an evaluation of the fulfillment of the statutory entitlement of each handicapped individual. The fact that there were only 500 requests for formal administrative review annually in recent years does not necessarily indicate that the system is working satisfactorily, (Laski, 1974.) but more likely indicates that the procedures for administrative review have not been made known to clients. Thus, for the provisions of Section 102 to be properly met, the evaluative standards and procedures of Section 401 must be implemented.

Section 103 (a) (11) Telecommunications, Sensory and other Technical Aids and Devices.

This portion of the Act clearly specifies that technical aids which will help make a handicapped person more employable are to be considered a part of the goods and services to be provided. It is not clear why this provision has not been implemented to the extent that it could be with available technology, at least with respect to the severely deaf.

For example, for almost ten years the technology necessary to permit deaf people to communicate by teletypewriters acoustically coupled to ordinary telephones has been available. Originally conceived and developed by a deaf man, Dr. Robert Weitbrecht, the creation of the final product and the entire network of teletypewriter-telephone terminals throughout the nation was accomplished without any evident support of VRA. Even today, when the opportunity exists with this technology, there is no evident effort by VRA to place such vitally important devices in the homes and offices of deaf people, and in public safety agencies, such as police and fire departments, throughout the nation. The substantial improvement of the employment potential of deaf people, including the possibilities of overcoming a major deterrent to advancement of deaf people (i.e., the inability to use the telephone as well as bringing to them public safety and social services) has not been advanced by attention or commitment from the Rehabilitation Services Administration.

Other sensory aids for deaf people, especially those which would tend to improve their ability to develop the use of their residual hearing and to maintain intelligible speech, have received minimal support as compared to the investment in further development and dissemination of the language of signs. It would seem at times that the increase of dependence rather than independence, prevails among those responsible for directing the programs relating to the handicapped. A thought provoking book published several years ago, The Making of Blind Men, by Robert Scott, prompts a reader to come to the conclusion that to be served by rehabilitation agencies for some disability groups, the client must himself adopt the behavior and characteristics traditional to the handicap in order to be served. The Communication Skills Program, supported by RSA has conspicuously avoided any attempt to improve the speech and listening skills of hearing impaired persons, concentrating entirely upon teaching of the language of signs. While not disputing the value of sign language to some deaf people who have need of this skill and to their families and friends, it is difficult to understand the conspicuous avoidance of the development of listening and spoken English among those with hearing impairments when acceptance by society so often requires spoken English. When statistics are quoted about the size of the hearing impaired population, it is not made clear that of the 13,000,000 citizens said to have hearing losses, less than 500,000 are "prevocationally deaf", that is a hearing loss incurred before the age of 19. It is this smaller group (and not all of them either, since one who loses his hearing after normal language development has taken place has only minimal use for the language of signs as compared to the prelingually deaf) that may require the language of signs as its primary communication mode. The balance of the 13,000,000, if properly trained to use their residual hearing and improve their speech, have little use or desire for the language of signs. It is true that through RSA, certain clients are provided with monaural hearing aids, but there is little or nothing offered in the actual use of the aids or in the way of social training with amplified hearing.

Sweden, a small nation of 8 1/2 million, has accepted full responsibility for rehabilitation of the hearing impaired. The placement of the hearing aid on the client is the first step not the last in the rehabilitation of the hearing impaired. Following such placement, the client is offered auditory training, is given the opportunity to select, and have installed at government expense, such additional technical aids as door bell lights, telephone signalling devices, baby cry alarms for deaf parents with young children, loop systems to permit better understanding of radio and television in the home and many other devices. The Communication Skills Program of RSA should be broadened to recognize the needs of the hard of hearing as well as the deaf by strengthening the more normal avenues of communication, namely, listening, lipreading and speech.

The philosophy of normalization, including the concept of least restrictive environment, which is now so prominent in the law and in practice in the education of handicapped children does not seem to have been adopted in the rehabilitation establishment. The maximum use of technical aids and improvement of speech communication and listening skills has not received the same attention and commitment under the Act as have more restrictive means. This is in spite of studies which have reported that independence and improved vocational advancement appear to be directly related to speech communication proficiency. (Lunde & Bigman, 1959.)

Section 401 - Program and Project Evaluation

This section of the Act has enormous implications to consumers of rehabilitation services since it establishes the statutory basis for accountability to the client as well as to the Secretary. RSA has traditionally used national statistics on placements and closed cases as evidence of successful rehabilitations and thus as the basis for evaluating its success. The Congress has responded in an increasingly generous fashion over the years, accepting these statistics as adequate evidence of the accomplishment of the agencies' mission and as the basis for further funding. Congress' ability to truly understand and evaluate the impact of the "successful" rehabilitations has been limited to information reported by the agency responsible for the delivery of such services. (There apparently is underway at this time, an audit of this rehabilitation process in some regions by G.A.O. and the result should be most helpful.) There has not been a systematic procedure, however,for measuring the true quality of the service delivery system and its impact on the consumer nor the manner of delivery which can alter the total effectiveness of the procedure. For such determination, it is essential in our opinion to obtain input from the consumer, namely, the rehabilitation client himself, or one who speaks for him.

To the best of my knowledge, and apparently that of others testifying before this committee, the evaluation standards required by Section 401 (a) (1) have not been published as yet, nor have consumer organizations such as the Alexander Graham Bell Association for the Deaf been invited to review such standards as may have been drafted. As recently as March 18, 1976, a series of 8 telephone calls to the Commissioner's office failed to result in a copy of the standards, though they were said to be "in process". Thus, the procedures for obtaining input from persons participating in, and served by programs and projects assisted under the Act as required by Section 401 (c), have not been defined. If traditional procedures prevail, there will be little or no such input. In particular, RSA should be seeking ways and means not only to acquire information on clients' experiences in the rehabilitation process, but should also define constructive ways in which to select and evaluate the relative importance of such input as compared to that obtained from those responsible for delivering the services. While not endorsing exclusive reliance upon consumer evaluations to evaluate the quality of rehabilitation, surely there must be some weight given to such evaluations if the intent is to truly determine the effectiveness of the process. In recognition of this concern for consumer input then, it would be appropriate to amend Section 401 (c) to read

> Section 401 (c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of a representative sample of persons participating in, and served by, programs and projects assisted under this Act about such programs and projects. (Underlined words are the proposed additions.)

The intent of this revision is to assure that a statistically significant number of clients will have the opportunity to express their views as to the effectiveness of the rehabilitation services, and thus offer to the Secretary and the Congress an added and important evaluation of the rehabilitation process. The procedures for obtaining this input and for quantitatively evaluating it with respect to other measures should be the subject of a research and demonstration project as provided under Section 202 (a). Through the use of techniques such as "policy capturing", which are well known and have been tested in other areas, it should be possible to permit more demonstration than research and rather quickly arrive at some improved evaluative procedures of receipt of services to which the client is entitled by the statute, and also the impact of those services under the client's life style and/or employability. (Fellendorf, 1974.)

Surely the states, which are obliged to implement the provisions of the Act, must urgently need a set of universally acceptable standards and evaluative instruments in order to fulfill their obligations to the Federal government as well as to the consumers. Until such are available, it is difficult to see how any oversight investigation can fail to reveal confusion, lack of adequate service and subsequent dissatisfaction from the public.

Conclusion

In conclusion, the principal of normalization, which is so prominent currently in the law and in growing practice in the education of the handicapped, should be reflected in the modifications of the Act and in its implementation by the Rehabilitation Services Administration. To accomplish this we must insist that RSA seek input from consumers; promptly define the term "severely handicapped"; specify the procedures for the individualized written rehabilitation program; take full advantage of available technology, and immediately publish an acceptable set of standards and evaluative procedures. By focusing on the effort to make the client as independent as possible in spite of [illegible] her physical or mental handicap, these suggestions can indeed help to accomplish what was in the mind of Congress and is certainly in the minds and hearts of handicapped people and those who are concerned for them.

I would like to commend the subcommittee and its staff for the excellence of its preparation for these hearings. In particular, the formulation of a long list of specific questions to be addressed by witnesses and HEW representatives, would appear to have been an innovative step toward bringing forth appropriate responses and constructive suggestions.

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4. Lunde, A. & Bigman, S. Occupational Conditions among the Deaf: A report on a national survey conducted by Gallaudet College and the National Association of the Deaf. Washington, D.C. Gallaudet College. 1959.

5. Scott, R.A. The Making of Blind Men. New York. Russell Sage Foundation, 1969.

Senator **Randolph**. We now have the testimony of Dr. Breunig. We are glad that you have come, not only because of your expertise and knowledge, but also your long history of efforts to assist in this area.

STATEMENT OF H. LATHAM BREUNIG, PH. D., EXECUTIVE DIRECTOR, TELETYPEWRITERS FOR THE DEAF, INC.

Dr. **Breunig**. Thank you, Mr. Chairman.

Mr. Chairman, members of the subcommittee, I am grateful for the opportunity to present to you the views of my organization on the implementation of the Rehabilitation Act of 1973.

I am president-elect of the Alexander Graham Bell Association of the Deaf, Inc., vice chairman of the board of trustees of the Clarke School for the Deaf, and executive director of Teletypewriters for the Deaf, Inc. My testimony this morning relates to telephone communication by deaf people, organizations representing them and their hearing relatives. They are largely excluded from reaching by telephone legislative, executive, and administrative departments of Federal, State and local governments.

Public Law 93–112; Title I, Part A, Section 103 (a) (11) stipulates that the vocational rehabilitation services include "telecommunications, sensory and other technological aids and devices."

Amendments embodied in Public Law 93–516 relate to architectural and transportation barriers. Deaf people have long been subject to communication barriers.

Under Public Law 93–112 there have been great strides made in conveying information to deaf people through open and closed captioning of motion picture films and television programs.

The Federal Communicaions Commission is requiring television stations to caption emergency warnings on television. These developments have been welcomed by the deaf community. But, insofar as we have been able to determine there have been no corresponding developments in telephone communication except in the private sector.

From the day of the invention of the telephone deaf people have been excluded from its use except in those few instances where they have been blessed with good ancillary human receptors and possess understandable speech. I do not refer here to the use of amplified telephones by the less severely hearing impaired.

In 1963 a deaf physicist, at the urging of a deaf orthodontist, developed a practical interface device which couples a teletypewriter to a standard telphone. The TWX and Telex private wire teletypewriter systems are much too expensive for individual use.

In 1968 the American Telephone and Telegraph Co. agreed to release, through the Alexander Graham Bell Association for the Deaf, Inc. surplus teletypewriter equipment. Teletypewriters for the Deaf, Inc., an Indiana not-for-profit corporation, was formed to implement the logistics involved in the acquisition of such equipment. Operating through an organization now approaching 100 volunteer representatives, Teletypewriters for the Deaf, Inc., has made it possible for thousands of deaf people throughout the Nation to possess telephone communication capability. From a small beginning of 25 stations in 1969, the system has grown to an estimated 15,000 stations, of which some 6,000 are members of Teletypewriters for the Deaf, Inc. I would like to enter into the record at this point our Telecommunications, A Telephone System for the Deaf which is attached to this testimony. I also enter into the record an editorial from the Indianapolis News which make reference to our efforts, and which is attached to this testimony.

As time passes, the finite supply of surplus teletypewriters has begun to dwindle. It is our understanding that many thousands of perfectly usable teletypewriters, hereinafter referred to as TTYs, are gathering dust in Federal Government warehouses. While there are ways we could perhaps acquire this equipment through Federal surplus property channels, the requirements for recordkeeping are too rigorous and burdensome for our nonprofit organization. We recommend legislation which would simplify the process by which we may acquire this equipment.

Senator **Randolph**. Those materials we shall include, and we are delighted to include those as part of your statement.

Dr. **Breunig**. Thank you.

Teletypewriters as they come from surplus stocks usually need to be reconditioned and otherwise adapted for use in our system. These services are being performed on a largely volunteer basis by deaf men who have varying degrees of expertise as a part-time activity in addition to their regular employment. We recommend legislation which will, through vocational rehabilitation, provide training courses for deaf people in order that they may be trained to supply a uniform, quality product that insures customer satisfaction.

As mentioned, the supply of surplus teletypewriters is finite. What is needed is development of low-cost telecommunications terminals which may serve the needs of deaf people, and which could be leased to them in the same manner that they lease telephones and special attachments. We recommend that Congress mandate the development of such equipment under the terms of section 304 of the Rehabilitation Act.

Many vocational rehabilitation offices throughout the Nation are installing teletypewriter equipment in order to communicate with their deaf clients. The impetus for this, however, has come from the private sector rather than through the provisions of 93–112. It seems right that the Federal Government should lead the way in providing such services for deaf people. We recommend that legislation be passed mandating the information offices and possibly the consumer affairs offices of all the Federal Government departments to install TTYs so that deaf people may communicate with them. It would also appear most desirable that legislative and executive offices of the Federal Government install TTYs. As things now stand, deaf people cannot communicate with their Senators and Representatives as hearing people do.

Since it has been demonstrated that TTYs have been extremely beneficial in teaching language to deaf children through the process of forcing them to type down their clearly thought out ideas, we would hope that the Bureau of Education of the Handicapped would encourage all schools and classes for deaf children to provide such equipment.

If I wanted to talk to you, I would have to talk to an intermediary, and my conversation would not be private.

We finally recommend that in order to break down communication barriers facing deaf people, the Architectural and Transportation Barriers Compliance Board be mandated by amendment to the Vocational Rehabilitation Act to make every effort to insure that widespread usage of TTYs be developed.

In conclusion, Mr. Chairman, I summarize our recommendations for future legislation as follows:

One: Provide for the ready acquisition of surplus teletypewriters stored in Government warehouses through relief from the extensive documentation now required by the Surplus Property Administration.

Two: Provide for vocational rehabilitation training of deaf teletypewriter servicemen.

Three: Provide that teletypewriters be installed in the information offices and/or consumer affairs offices of all major Federal Government departments.

Four: Provide for the use of teletypewriters in schools and classes for deaf children.

Five: Mandate the Architectural and Transportation Barriers Compliance Board to make every effort to tear down communication barriers facing deaf people.

We urge your consideration of these recommendations.

Senator RANDOLPH. Thank you very much.

We have done work in the field of communications, and we shall place in the record exactly what these provisions have been.

Do you have any experience of the ratings that have been reported to you, Pat?

Mrs. FORSYTHE. I would say the teletypewriters have been a very important communications link, not only the Teletypewriters for the Deaf, but the other new telecommunications' development, which I realize are in the field testing phase now, but will be helpful to the deaf and hearing impaired people.

I wonder how much experience Dr. Breunig has with the newer modes of telecommunications for the deaf people.

Dr. BREUNIG. There have been devices such as the TVPhone, the MCM, the Magsat which utilize "soft copy" or transitory readout such as on a TV screen, which are compatible with the system. These have advantages of portability, and are generally preferred by hearing people whom the sound of teletypewriters sometimes "drives up the walls." One such device is battery-operated, weighs 5 pounds so I can carry it around with me and make calls from telephone booths to people with teletypewriters. However a recent study indicated that 95 percent of deaf people in the sample preferred the hard copy on paper.

Senator RANDOLPH. I think the amendment that I have sponsored covers both of these.

How many years have you been with the association?

Dr. BREUNIG. I have been with the Board off and on, the board members have rotated, and I have been off and on since 1956.

I founded the oral deaf adult section of the association.

Senator **RANDOLPH.** Well, we have Senators running for President, as you know, and they have not had as long an experience as you have; so after 20 years, it is fitting that you be the president-elect.

Dr. **BREUNIG.** Yes, they finally began to realize that deaf people can do things that hearing people can do.

Senator **RANDOLPH.** We wish you well.

Dr. **BREUNIG.** Thank you. I would like to add one more thing about employment opportunities.

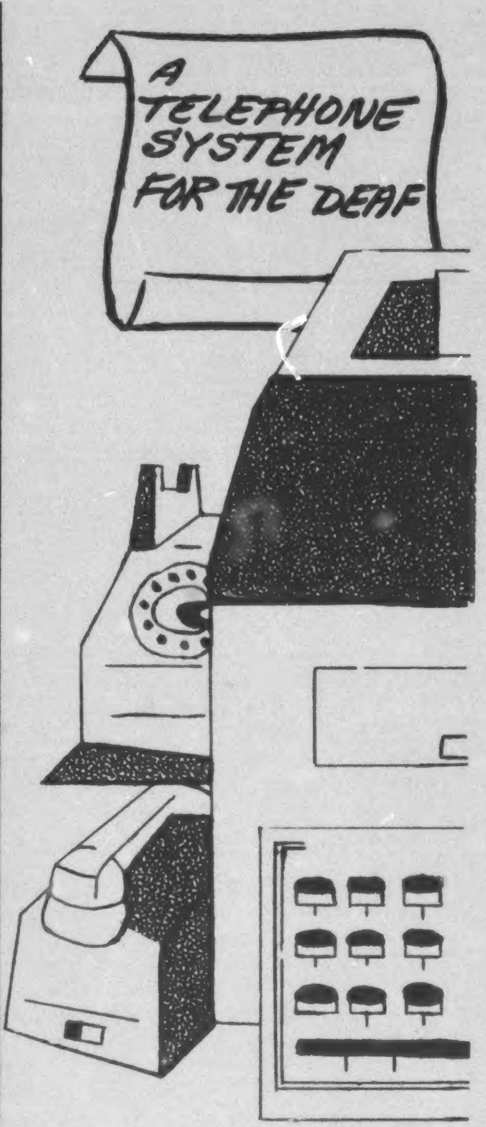
So many deaf people can do everything other people can do, but employment opportunities are sometimes limited because telephone communication is rquired.

In the Indiana State School for the Deaf, a deaf man was appointed assistant superintendent of the school, because the teletypewriter enabled him to communicate with other departments of the school, so here again teletypewriters are providing deaf people with improved employment opportunities.

Senator **RANDOLPH.** Thank you very much.

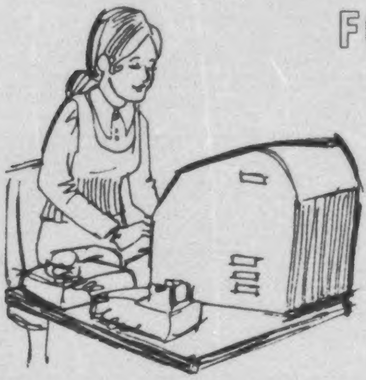
[The documents referred to follow:]

TELECOMMUNICATIONS


A TELEPHONE SYSTEM FOR THE DEAF

Philip A. Bellefleur, Ph.D.
H. Latham Breunig, Ph.D.

A HISTORY OF TELECOMMUNICATIONS FOR THE DEAF



■ By now we all know how ironic it was that Alexander Graham Bell developed a communication tool for the hearing man while actually trying to develop a communication tool for the deaf. What we do not seem to consider is the fact that the telephone advanced the hearing man technologically by extending his communication potential over great geographic distances at the speed of light. We can never know, of course, what the total impact of the telephone has been in expediting the development of society, but we can get some idea by looking at those it left behind.

■ During the period following the development of the telephone, hearing people were acquainting themselves with new friends and colleagues all over the world, while the deaf community was remaining much the same as it had always been. Limited by the distance over which he could see, or the time it took to send and receive a letter, the deaf man was desperately trying to broaden his world. He was well aware that collective thinking enhances progress, but for all of the intellect he possessed, there was no connecting link.

■ To the deaf man, the telephone is a constant reminder of his limited communication potential. Because of his inability to hear or speak intelligibly, he is relegated to virtual social isolation from the hearing, and worse, from those he loves most. If his friends live away from him, he must walk or drive just to say "hello". In emergencies, he must rely on hearing neighbors to call for the fire department, police or ambulance.

■ Until recently, the deaf community has been unable to advance its communication potential for two reasons: first, because companies interested in the devlopment of electronic communication devices found the deaf economically unprofitable, and second, because the expertise did not exist within the deaf community to develop such instrumentation independent of hearing people. In defense of the deaf, it must be said that collectively the expertise had existed for many years, but because of their isolation from each other, there was no group movement to solve the problem.

■ In 1964, a deaf engineer developed an electronic device that allowed the connection of two teleprinters (TTY) by means of accoustic/inductive coupling to the standard telephone. Using standard telephone lines, they bridged the long existent communications gap between the deaf.

■ One cannot view this struggle to communicate without feeling great respect for the deaf and for what they have achieved for themselves. Hearing people should view these efforts with a feeling of guilt in the knowledge that they could have helped, but did not.

■ There are 410,000 *prevocationally deaf people in the United States today. Of these, less than two percent have a teleprinter. The picture becomes more serious if one realizes the total number of teleprinters in the United States would not be sufficient to give one to each of the remaining deaf people; this assumes they were available in the first place.

*The Deaf Population of the United States, Schein & Delk, 1974.

WHAT ARE TELETYPEWRITERS FOR DEAF PEOPLE?

What are "teletypewriters for deaf people"?

It is a system by means of which deaf individuals may communicate with others over the regular telephone system by typing back and forth. The present national network of teletypewriters (TTYs) consist of over 10,000 such stations, including over 400 schools and other organizations serving deaf people.

How do they work?

When the sending party types out his message it is converted into impulses by a "modulator", and sent over the telephone wires to the receiver. The receiver's modulator reconverts the received impulses into signals which are fed into the teletypewriter which types out the message.

Placing a call:

The party placing a call dials a number in the normal fashion and watches his monitor light for the proper response. Local calls are generally no problem. For long distance calls deaf persons depend largely on DDD (Direct Distance Dialing). In a few cases, however, persons to whom DDD is not available have worked out a system that utilizes pre-recorded voice messages on tape recorders to instruct telephone operators on small rural exchanges.

Receiving a call:

Deaf persons with TTYs generally have some form of visual signalling equipment to warn them when the telephone rings. They answer the phone by placing the telephone handset in a cradle on the acoustic coupler, turning on their TTY and typing out their identification, e.g., "Mary Jones here. GA."

Equipment:

The telephones used by deaf people are standard, for which they pay the same charge as everyone else for installation and service. It is recommended that deaf persons request "unlisted" telephone numbers so that they will get a minimum of calls which they cannot handle. This is no guarantee against "wrong numbers", however.

Teletypewriters used by deaf people are generally those which have been declared obsolete and surplus, and are donated to deaf people and organizations serving them by Bell Telephone System operating companies (over 3,000 units in seven years, Western Union, International Telephone and Telegraph, RCA Communications and a number of private users. In addition to new machines from the Teletype Corporation, sources include surplus equipment from various military and other governmental agencies.

These surplus machines are reconditioned and installed in the homes of deaf people by knowledgeable deaf persons or by qualified experts assisting them.

TTYs range in variety from simple keyboard send-receive models through more complex units which are capable of transmitting a message prepunched on paper tape. Some sophisticated set-ups may record a complete call on punched tape which may then be used to retransmit the message to another party.

A recently developed model of TTY provides transitory readout on the TV-like screen. The TTYs used in the network for the deaf have been standardized at a maximum 60 words-per-minute typing speed, using the five-level Baudot Code.

Costs:

Telephone costs the are same as those for everyone else, including installation, monthly service charges, and long distance rates.

Teletypewriter costs range from $50.00 (used machines) to $800 or more new.

Complete installation for a TTY ranges up from $250. Costs after installation would include monthly telephone service charge, replacement of paper and ribbon, plus minimal maintenance.

Community activities:

These include news services, catalogue ordering from department stores, weather reports, and answering services whereby the deaf participant may reach another telephone through the intermediary of a hearing person with a TTY. Several communities have TTYs in the sheriff's office or police department for emergency service, while others have "hot lines" serviced by organizations that provide counselling service to hearing people. In at least one instance an "alert" via TTY resulted in positive and successful action by deaf people concerning legislation affecting them.

The "Telephone System for the Deaf" at this point in time approximates 10,000 installations. Of these, some 5000 are members of **TELETYPEWRITERS FOR THE DEAF, INC. (TDI),** who are served by over 100 authorized agents and are listed in the **INTERNATIONAL TELEPHONE DIRECTORY OF THE DEAF.**

Disadvantages

Disadvantages are few. In addition to the substantial initial cost of an installation and monthly telephone bills deaf people will find that it costs them relatively more than hearing persons to make long distance calls since they cannot type as fast as people talk. Also, many deaf people with inadequate language and grammar are reluctant to expose their shortcomings to others via the printed word.

Advantages are numerous and include:

Freedom from dependance on children, relatives and neighbors in making telephone contacts.

Ability to make business or social contacts by telephone instead of having to drive their car, avoiding risks of futile trips.

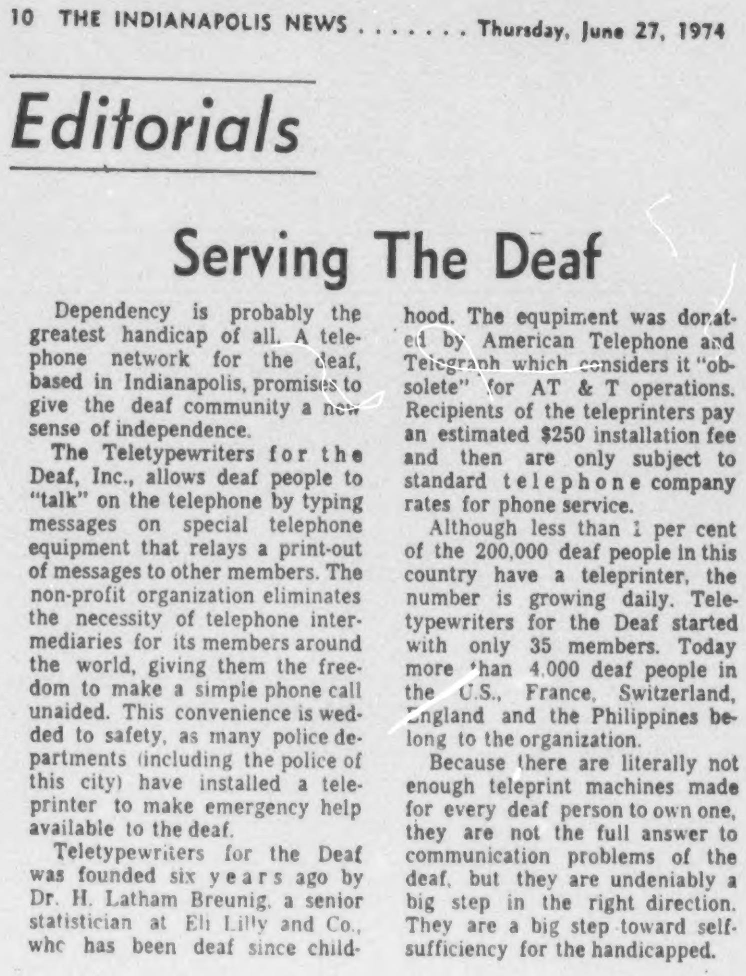
Improvement in written expression through the the constant use of TTY.

Peace of mind in knowing that they can secure help in emergencies. Already there have been recorded cases of lives having been saved through the ability of deaf persons to quickly obtain medical assistance in time of need via their teletypewriter.

For further information contact:

TDI

TELETYPEWRITERS FOR THE DEAF, INC.
P. O. Box 28332
Washington, D.C. 20013



10 THE INDIANAPOLIS NEWS .... Thursday, June 27, 1974

Editorials

Serving The Deaf

Dependency is probably the greatest handicap of all. A telephone network for the deaf, based in Indianapolis, promises to give the deaf community a new sense of independence.

The Teletypewriters for the Deaf, Inc., allows deaf people to "talk" on the telephone by typing messages on special telephone equipment that relays a print-out of messages to other members. The non-profit organization eliminates the necessity of telephone intermediaries for its members around the world, giving them the freedom to make a simple phone call unaided. This convenience is wedded to safety, as many police departments (including the police of this city) have installed a teleprinter to make emergency help available to the deaf.

Teletypewriters for the Deaf was founded six years ago by Dr. H. Latham Breunig, a senior statistician at Eli Lilly and Co., who has been deaf since childhood. The equipment was donated by American Telephone and Telegraph which considers it "obsolete" for AT & T operations. Recipients of the teleprinters pay an estimated $250 installation fee and then are only subject to standard telephone company rates for phone service.

Although less than 1 per cent of the 200,000 deaf people in this country have a teleprinter, the number is growing daily. Teletypewriters for the Deaf started with only 35 members. Today more than 4,000 deaf people in the U.S., France, Switzerland, England and the Philippines belong to the organization.

Because there are literally not enough teleprint machines made for every deaf person to own one, they are not the full answer to communication problems of the deaf, but they are undeniably a big step in the right direction. They are a big step toward self-sufficiency for the handicapped.

Senator RANDOLPH. We will now hear from Mr. Sy Dubow, legal director of the National Center for Law and the Deaf.

Mr. Dubow, I believe you have the young lady with you, and you might identify yourself and her and the work you do.

STATEMENT OF SY DUBOW, LEGAL DIRECTOR OF THE NATIONAL CENTER FOR LAW AND THE DEAF; ACCOMPANIED BY LAURIE FARHAM, NATIONAL LAW CENTER, GEORGE WASHINGTON UNIVERSITY

Mr. DUBOW. I am Sy Dubow, and I am the legal director of the National Center for Law and the Deaf, and I am accompanied by Laurie Farham, a law student working with us from the National Law Center, George Washington University, and we appreciate the opportunity to appear before the subcommittee to present our concerns and recommendations regarding the Rehabilitation Act of 1973, as amended.

The National Center for Law and the Deaf is a joint project between George Washington University Law School and Gallaudet College designed to provide legal services and legal education for the 13.4 million hearing-impaired people in the United States.

Our testimony today will deal with the affirmative action and antidiscrimination provisions covered by sections 504 and 503 of the Rehabilitation Act. We think that these provisions provided a "Bill of Rights" for handicapped people. We wish to address our comments, however, to the failure of Federal departments and agencies to meaningfully implement these precious rights.

Section 504 prohibits discrimination against handicapped people by any activity or program receiving Federal financial assistance. Because language in this provision parallels wording in title VI of the Civil Rights Act of 1964, 504 was hailed as a landmark in the struggle for equality for disabled people. But, words in themselves can never insure equality. Rather, a plan of action to enforce the Congressional intent in section 504 is essential to stop discrimination against the handicapped. At present, this plan of action, in the form of regulations, is nonexistent.

The House conference report on the Rehabilitation Act Amendment of 1974 indicates that HEW "should assume responsibility for coordinating the section 504 enforcement effort." In addition, the report stated that delay in completing HEW's section 504 regulations beyond the close of 1974 would be "most unfortunate." More than 2½ years have passed since the enactment of section 504 and handicapped people are still waiting for regulations. The failure of any Federal agency to promulgate regulations to implement section 504 has resulted in complaints not being investigated and rights not being enforced. We urge this committee and the Congress to require HEW to immediately develop and promulgate effective section 504 regulations so that an enforcement program can at long last begin.

We also wish to point out that meaningful regulations should provide sanctions for noncompliance, the right to file a complaint and judicial review.

Section 504 regulations should include sanctions for noncompliance, such as those provided in title VI of the Civil Rights Act of 1964, including the termination of or refusal to grant assistance to a program which discriminates against handicapped persons. We know of no reason why section 504 should not be written as forcefully as is title VI, to protect handicapped individuals as other minorities have been protected in the past.

Section 504 regulations should provide individuals with the right to file a compliant with HEW and require HEW to promptly investigate all complaints and take appropriate action. Section 503 of the Rehabilitation Act already provides a similar right to employees of Federal contractors to file complaints with the Department of Labor.

Finally, section 504 regulations should provide for judicial review, in a manner similar to the title VI provisions. Such a regulation will allow handicapped individuals and groups of and for handicapped people to seek court action should HEW prove to be incapable of insuring the rights of handicapped individuals.

We would like to reemphasize the appropriateness of using title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 as statutory models for section 504. First, the House conference report has already expressed such to be the intent of Congress. Second, HEW itself has indicated its awareness of and intention to follow such models. The 1975 annual report of HEW on the Rehabilitation Act of 1973 states that:

> * * * the Office of Civil Rights plans to use the enforcement programs established under these two statutory provisions (title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972) as a model for the section 504 enforcement program.

Ms. Farham. Section 503 states that any Federal contract in excess of $2,500 shall contain provisions requiring the contractor to take affirmative action to employ and promote handicapped employees. The Department of Labor's proposed regulations to implement section 503 provide several loopholes for Federal contractors to escape their affirmative accommodation obligations. The proposed regulation, section 741.5(c)(3) is a case in point. It states:

> In determining the extent of a contractor's accommodation obligations the following factors among others, may be considered by the Department of Labor or the Agency: (i) business necessity, (ii) financial cost and expenses and (iii) resulting personnel problems.

These factors are all overly broad terms that can be too easily relied upon as justifications for the failure of a contractor to make reasonable accommodations for their handicapped employees. For example, if fellow employees complain because a handicapped employee is to be accommodated by the employer, the employer might say that such an accommodation would result in personnel problems. This phrase must be given a more restrictive interpretation placing the burden of proof on the Government contractor to show a substantial reason for not complying with his affirmative action obligations.

Another major escape clause is contained in proposed section 741.24(b)(2) which totally exempts any contractor whose contract or subcontract is essential to the national security. That proposed regulation states:

> Any requirement set forth in these regulations in this part shall not apply to any contract or subcontract whenever the head of the contracting agency deter-

mines that such contract or subcontract is essential to the national security and that its award without complying with such requirements is necessary to the national security.

The fact that a contract is essential to national security does not justify the nonapplication of a Government contractor's affirmative action obligations. Since so many Government contracts are related to the national defense, this section can be frequently used to relieve a Government contractor of his affirmative action obligations. Would a company which manufactures a small part for fighter planes—planes essential to the national security—be exempt from their affirmative action obligations? If so, then this exemption could have a rippling effect defeating the purpose of section 503. Moreover, the fact that a person is handicapped does not make that person a greater threat to this country's national security than a nonhandicapped person. This section can, therefore, discriminate against individuals solely on the basis of their handicap.

More than 275,000 companies and institutions employing more than one-third of the U.S. work force are affected by section 503. Yet, since its enactment, more than 2 years ago, less than 300 affirmative action plans have been drawn up by Federal contractors.

The inability of the Department of Labor to effectively evaluate affirmative action plans is built into the proposed regulations. That is evident in section 741.4's requirement that contractors only maintain affirmative action plans at their places of business. That factor coupled with less than 40 Department of Labor personnel outside of Washington working on section 503 makes comprehensive reviews of plans extremely difficult.

We suggest to this committee that there be an increase in the staff of the Office of Federal Contract Compliance Programs to insure adequate review of plans. We also suggest that the regulations require contractors to submit their plans to the Department of Labor and that annual compliance reports be filed to check if the Act is being followed.

Senator RANDOLPH. We are very appreciative of your contribution to our hearing today. I think it is important that the record indicate that we will receive testimony from the Department of Labor in the near future; and at that time we may discuss some of the recommendations which you are making.

Now we want to know how your program is funded, and about your relationship to the National Center on Law and the Handicapped.

Mr. DUBOW. We are funded at the present time on a 30-month grant from the Department of Health, Education, and Welfare.

The National Center for Law and Handicapped in South Bend, Ind., is a totally separate entity, which I believe is funded through LEAA, or, maybe, the Justice Department.

They deal mainly with problems of the mentally handicapped. Our mandate is to deal with problems related to the deaf and the hearing-impaired.

Senator RANDOLPH. Thank you for that explanation.

Mr. DUBOW. Thank you.

Senator RANDOLPH. We thank you again. We will keep in touch.

Mr. DUBOW. Thank you.

Senator **RANDOLPH.** It is our privilege now to welcome Billy Kilmer, quarterback for the Washington Redskins, as our next witness; allow me to talk football and to digress from the subject matter.

Billy, today's game is different from the days I was directly associated with football in the 1920's, beginning especially in 1926, and running through a period of some 7 years. Today I see these complete teams moving in and out of the field; and I remember those days when it was very rare that we even made a substitution, believe it or not.

Mr. **KILMER.** I played in those days too, Mr. Chairman.

Senator **RANDOLPH.** I guess I must be forgiven, but I remember when Davis & Elkins College, that is in my hometown of Elkins, when we went down to Annapolis in 1928 to play Navy. We called it a warm-up game, and it was warm there: it was 88. Our team from the mountains won by a score of 2 to 0.

Now, that is not too unusual perhaps; the Navy has lost before, but not to a little college in the hills, but we never made a substitution. Eleven men played the whole game.

Mr. **KILMER.** You sound like a George Allen man.

Senator **RANDOLPH.** We went down with only 16 players, and they were great days. I was in a certain city yesterday where living now is one of those young men; his name was Albert Halleck, and he went on to become one of the leaders of the Indian school system. Frankly, if it had not been for athletics and for the aid he was given, he would never have been a college student, he would have never had graduated. Anyway, we are happy to have you here, not just as a football star in your own right, but as someone who has gone beyond that prowess of his own profession, and wishes to help others, as they wish to strengthen themselves.

Will you please testify now.

STATEMENT OF BILLY KILMER, NFL QUARTERBACK FOR THE WASHINGTON REDSKINS

Mr. **KILMER.** Yes, sir.

Mr. Chairman, I appreciate the opportunity to appear before you today, and I am grateful for the opportunity to express my support for expanding recreation services as part of the Rehabilitation Act.

I am here as a layman, not a professional. As a layman I speak on behalf of the importance that recreation and physical activity have played in my life; and, on behalf of the importance that recreation and physical activity play in the lives of handicapped people.

I am pleased to have with me today, Dr. John A. Nesbitt, chairman of the recreation education program at the University of Iowa, a national authority in recreation and leisure for the handicapped.

Dr. Nesbitt speaks for some 20,000 people throughout the United States who have dedicated their professional lives to providing recreation and leisure opportunity for the ill and handicapped.

I wish to share with the subcommittee my personal views on the importance of recreation and leisure opportunity in the lives of people who are handicapped. Dr. Nesbitt will present information that reflects research and demonstration, professional experience and program development strategies in recreation and leisure for the ill and handicapped.

Because my professional career is in physical activity and recreation, I am acutely aware of the importance of play in the growth and development of the normal child, in the leisure pursuits of the adult, and in the life experience of the older American.

As a parent of a handicapped child, I know how important recreation and leisure are to growth and development. Living with disability is somewhat like living with a toothache. The pain is enervating and debilitating.

I had a severe accident myself. I learned to live with the pain. But, the impairment to growth and development, the constrictions put on the quality of life for handicapped are day in and day out, forever. Without making special provisions for leisure in the life of the handicapped, my child and all other children who are handicapped simply do not have the chance to participate in the American way of life that able bodied children do. And this disenfranchisement continues into adult life; it is lifelong.

Handicapped people in America today are denied opportunity to participate in our parks, in our cultural centers and museums, in our theatres. Most people say, "I don't see any problems with handicapped people participating in these activities and buildings * * * but, now that you mention it, I don't recall seeing any handicapped people participating." That is my point. One in 10 Americans is handicapped. But if you go to your local recreation center, will you see 1 handicapped person out of 10 participating? No. If you go to your local swimming pool, will you see 1 handicapped person in 10 swimming there? No. If you go down to the Smithsonian Institution today, will you find 1 handicapped in 10 going through the exhibits? No. If you go to Ford's Theatre, will you see 1 handicapped in 10 attending? No. If you go to the recreation centers, pools, parks, museums, playgrounds, and all the other recreation and leisure services, facilities and programs across the Nation, will you see 1 handicapped person in 10 participating? No.

Why not? Handicapped people try to participate, but then finally give up. First, the physical barriers deny access. Second, the social barriers deny access. Third, the lack of the special recreation and leisure services such as trained leaders, special transportation, special compensatory training to make participation possible, the special adaptations to make participation possible are lacking.

It is the lack of special transportation, special adaptation, barrier free design, specific personnel trained to make participation possible that I am here to talk about.

For the adult disabled who is employed full time, there are still maybe 4 hours a day of leisure time that is not fulfilling or meaningful.

For the adult disabled person who is working only part time there are 8 hours a day of leisure time that are unfulfilled. I would refer particularly to the mentally retarded adult for whom leisure is a blank, an empty void.

For the handicapped adult who works only 1 or 2 hours a day or who does not work at all, there are 10 to 16 hours a day that are simply a void, an emptiness.

Should life for these people be a void, an emptiness? I think not. Across our Nation only 35 percent of the public recreation departments offer any type of recreation service for handicapped.

And, those 35 percent serve only 5 to 10 percent of the handicapped population in those communities. These figures tell me that we are ignoring the issue of quality of life for millions and millions of handicapped people.

The American rehabilitation program has been one of the greatest humanitarian efforts of the 20th century. As you know, the program reaches out to hundreds of thousands each year.

This committee and a few of the leaders of the American rehabilitation program such as Mary Switzer, Dr. Howard Rusk, Harold Russell, and Dr. James Garrett have provided leadership in the recreation and leisure dimension of this program; but 99 percent of the problem has been skirted.

I believe the time has come to directly confront the fact that recreation and leisure, cultural opportunity and creative fulfillment for handicapped in this Nation has been ignored.

I hope that this committee will help our Nation focus attention on the actual total life experience of the mentally retarded adult, the person with cerebral palsy, the person who is homebound, the person who is mentally ill, the physically handicapped person who may not be able to participate in one public recreation or park program within 100 miles of his or her home.

Please consider that the quality of life of these individuals, individuals who by any standard of human compassion should be allowed to participate in their churches, their recreation centers, and their parks, is not a charity but a right.

I hope that the committee will during the Bicentennial Year see some means of establishing the legislative policies and programs that will assure by the year 2000 that every American, handicapped included, has full opportunity for the pursuit of happiness.

Senator RANDOLPH. Billy, I will say that that is a very moving statement, but that would not be a complete response. It is a very reasoned statement, and that is the importance of it as we make this record.

I was riding yesterday on a scheduled airline, and it so happened on that trip that there were four passengers who were rolled into the plane in wheelchairs.

As you know, we have worked to enable handicapped individuals to travel in airplanes. This aids in their independence.

Mr. KILMER. I know this too. My 16-year-old daughter is handicapped; she cannot walk. And, you know, she is getting more and more independent; of course she has had a lot of help in her life; you have to help her to dress and so on. I was just home for 2 weeks; she has progressed in many ways in her life. She wants to do for herself. She wants to be just like everybody else; to be normal. She tells me, her mother, and everybody, what she wants to do. She was driving a car for the first time in her life; and I thought that was amazing. People like Kathy, they need some help from all of us.

I think we need to have these facilities for them, because they are just like any one of us.

My daughter might need just a little bit of help, but she will do it on her own, and nobody will help her. That is the type of thing that makes me go up there and face the Dallas Cowboys, and some of these other teams. I know that that little girl has more heart than most of those players I ever played with, and it gives me a lot of inspiration and heart. I just hope we can build some good recreation facilities, and get them in all across the Nation for everybody.

Senator RANDOLPH. Well, there are these hundreds of thousands of Kathys. Naturally, that is very close to your heart, as it should be, and sometimes, you know, our interest is increased, because of that which happens very close to us. Perhaps that is your reason: you have had a daughter who is handicapped, who is in a wheelchair. The challenge is for those like you, who are part of a winning team, to bring a winning team into this effort to help the rehabilitation programs realistically; and that is why you are here.

Mr. KILMER. Yes, sir.

Senator RANDOLPH. And we appreciate what you are saying.

Mr. KILMER. Thank you, Senator. It has been a pleasure.

Senator RANDOLPH. Thank you, Billy. We will be seeing you, and we will be working with you.

Mr. KILMER. Thank you very much.

Senator RANDOLPH. We will now hear from Dr. John A. Nesbitt, chairman of the recreation education program of the University of Iowa.

Dr. Nesbitt, will you please identify yourself.

STATEMENT OF DR. JOHN A. NESBITT, PROFESSOR, CHAIRMAN OF THE RECREATION EDUCATION PROGRAM, UNIVERSITY OF IOWA CITY, IOWA

Dr. NESBITT. Thank you, Mr. Chairman.

My name is John Nesbitt, professor and chairman of the recreation education program of the University of Iowa.

Mr. Chairman, I thank you for the invitation to testify.

I have a prepared statement, which I wish to submit, and I wish to make a few comments in support of Mr. Kilmer's position.

The Subcommittee on the Handicapped has demonstrated its total concern for the individual who is handicapped.

I want to reenforce the idea that cultural, recreational, and leisure participation is a social right and rehabilitation necessity. The subcommittee knows fully the vast number of Americans who are handicapped. The subcommittee has had many programs which have met many of the needs of the handicapped; however, we professionals, and the public at large have misunderstood the needs in enforced leisure for handicapped.

For millions of handicapped, 12 and 13 hours a day of enforced leisure is socially unacceptable.

Millions of handicapped people have 5 to 13 hours free time a day, but they cannot get past the physical barriers that exclude them from our leisure facilities.

Some 15,000 aged, arthritic, heart impaired and physically handicapped need elimination of physical barriers to leisure and special leisure services. They may have up to 13 hours of enforced leisure a day.

Some 3 million legally blind and totally deaf need significant leisure adaptation and modification as well as professional leisure services.

Some 20 million visually impaired and hearing loss people need leisure adaptation and modification, special aids, and so forth.

Some 5,000 deaf-blind need the full range of leisure services and may have up to 13 hours of enforced leisure a day.

Some 8 million mentally retarded and mentally ill need the full range of professional leisure services and may have from 9 to 13 hours of enforced leisure a day.

Some of 4,600,000 employed handicapped need supportive leisure services and modifications for normal participation in leisure.

Some 2 million unemployed handicapped have up to 13 hours per day of enforced leisure calling for a wide range of professional leisure services.

While the number of institutionalized or people in acute care is not presently available, this population has up to 12 hours per day of leisure time and depends primarily on professional leisure service for leisure programs, leisure education, leisure counseling, et cetera.

Some 325,000 to 350,000 disabled through illness or accident are rehabilitated annually and placed vocationally. This group needs professional leisure service as part of the rehabilitation program.

The nonhandicapped person working full time may have up to 5 hours of leisure per day. The handicapped person who is employed part time may have 9 hours of leisure. The handicapped person who is unemployed, or retired and thus unemployed, or in an institution, or in acute care, may have up to 13 hours of leisure a day. For the handicapped, the quality of leisure life ranges from normative to limited, to low to very low.

The subcommittee is aware that leisure is a major growth industry, offering thousands of part-time and full-time job opportunities for the handicapped, but we must direct our attention to this potential if gains are to be made.

I want to emphasize that enforced idleness drains purpose from life, it undermines rehabilitation, it impairs physical and social and emotional and intellectual development. Conversely, cultural recreational and leisure participation gives purpose to life, gives a person fulfillment and achievement, and enhances personal dignity. And worthwhile leisure participation has benefits.

Further, I want to emphasize that when leadership and support are provided, then the local community will respond, and take up financial responsibility.

There are important new models for recreation and leisure, such as the Recreational Center in San Francisco, the one in Washington, D.C., and the regional activities in the Recreational Center for the Handicapped, in Wood County, W. Va. But, the fact is that only 5 percent of the adult handicapped population is currently receiving professional recreational services.

These services are essential to successful functioning for the 95 percent of the handicapped population. The barriers to development are lack of direct service personnel; lack of advanced level personnel at the masters and doctoral level; lack of leisure activities for the handicapped; and the lack of a single agency to meet leisure needs of the handicapped.

By that, I mean rehabilitation agencies do not identify with leisure; leisure agencies do not identify with the handicapped.

Present day volunteerism through activities such as the wheelchair games, special olympics, cultural festival for handicapped, is to be encouraged. Leisure for handicapped consumerism is to be encouraged.

Many physical barriers serve to "lump and dump" the handicapped of America outside our parks and leisure facilities. The Federal Government has opened up 266 of 286 national parks but the issue of accessibility is yet to be addressed at the State and local levels. I hope the Architectural and Transportation Compliance Board will take an interest.

Some 30 research projects related to leisure, leisure employment, and leisure service for handicapped have been conducted by the Rehabilitation Services Administration over the last 20 years. These are commendable but only about one-quarter of the job has been done.

From aide through administrator there are about 20,000 people working in leisure service for handicapped in the United States. Up to 300 have received federally funded training. Only 1,500 hold professional ratings. There is need for technical information for 10,000; inservice training for 2,000; masters level preparation for 100; and, doctoral level preparation for 25.

The leisure needs of the handicapped must be mandated in Federal legislation such as the Humanities and the Arts Act, Community Education Act, and Outdoor Recreation Act.

To support the development of adequate leisure opportunity and leisure service to America's 23 million handicapped, $10 million is needed for a 5-year intensive effort in inservice training, technical assistance, technical information, demonstration, and research. This will be the first step in assuring an improved quality of life for the handicapped of America.

Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you very much, Dr. Nesbitt, for your contribution to our hearings.

You have covered the highlights of your statement, and your complete statement will be included in the record.

You talk about enforced idleness, and I presume that is a malady that is very destructive, not only the loss to individuals, but the loss to the productivity of America itself. There is so much that all can do in one way or another to make contributions to our society.

Dr. NESBITT. Yes, sir.

Senator RANDOLPH. I think we find, Dr. Nesbitt, that the person who is handicapped, if stimulated, encouraged, and helped in the right way, will go the extra mile; is not that true?

Dr. NESBITT. Yes, that is true.

Senator RANDOLPH. I shall place in the record the letter from Harold Russell, the chairman of the President's Committee on the Employment of the Handicapped, which Dr. Nesbitt has mentioned. Also, I think it will make the record more complete, if I do include the article that you mentioned briefly about West Virginia.

Dr. NESBITT. I have four attachments, and one is an article from the "West Virginia Administration and Park Review," that addresses itself to the regional center that has been established there.

Senator RANDOLPH. Those materials will be made a part of the record. I do think the regional center was a breakthrough.

Dr. NESBITT. It is a very important breakthrough.

Senator RANDOLPH. Thank you very much, Doctor. We shall continue to keep in touch with you.

Dr. NESBITT. Thank you very much.

[The following material was supplied for the record:]

SUMMARY OF PREPARED STATEMENT OF JOHN A. NESBITT

(Based on the full text of the paper, The Status of Recreation and Leisure for the Adult Handicapped in Need of Rehabilitation Services)

Leisure participation for the handicapped is a social right like education.

Professional leisure service for handicapped is a rehabilitation necessity.

No treatment or rehabilitation plan for ill or handicapped is complete without attention to successful leisure settlement.

Leisure today is a $150 billion a year industry. We live in a "Leisure Age."

The leisure service work force numbers one million; 500,000 in the public sector and 500,000 in the private sector.

Leisure and the leisure service industry are both growing. This can mean jobs for the handicapped.

The Secretary of Health, Education and Welfare put the stamp of official Federal Government recognition on therapeutic recreation service in 1973.

Some 15,000,000 aged, arthritic, heart impaired and physically handicapped need elimination of physical barriers to leisure and special leisure services, and may have up to 13 hours of enforced leisure a day.

Some 3,000,000 legally blind and totally deaf need significant leisure adaptation and modification as well as professional leisure services.

Some 20,000,000 visually impaired and people with hearing loss need leisure adaptation and modification, special aids, etc.

Some 5,000 deaf-blind need the full range of leisure services and may have up to 13 hours of enforced leisure a day.

Some 8,000,000 mentally retarded and mentally ill need the full range of professional leisure services and may have from 9 to 13 hours of enforced leisure a day.

Some 4,600,000 employed handicapped need supportive leisure services and modifications for "normal" participation in leisure.

Some 2,000,000 unemployed handicapped have up to 13 hours per day of enforced leisure calling for a wide range of professional leisure services.

While the number of people institutionalized or in acute care is not presently available, this population has up to 12 hours per day of leisure time and depends primarily on professional leisure service for leisure programs, leisure education, leisure counseling, etc.

Some 325 to 350 thousand disabled through illness or accident are rehabilitated annually and placed vocationally. This group needs professional leisure service as part of the rehabilitation program.

The non-handicapped person working full time may have up to 5 hours of leisure per day. The handicapped person who is employed part time may have 9 hours of leisure. The handicapped person who is unemployed, or retired and thus unemployed, or in an institution, or in acute care, may have up to 13 hours of leisure a day. For the handicapped, the Quality of Leisure Life ranges from "normative" to limited, to low to very low.

There are 23 primary leisure activity areas:

Aquatics/Swimming
Crafts
Cultural/Ethnic Activities
Art-Graphics
Dance
Dramatics
Entertainment
Educational Activities
Fitness
Leisure Education
Leisure Counseling
Leisure Careers Education
Leisure Careers Guidance
Mental/Literary/Games
Outdoor/Nature Activities
Music
Social/Organizational
Special Events
Sports—Individual, Non-competitive
Sports—Individual, Competitive
Travel/Tourism
Voluntary Service

The benefits of leisure, leisure participation and leisure service are:

Compensates limitations
Therapeutic
Educational
Vocational
Community settlement
Personal fulfillment
Political fulfillment
Personal compensation
Supports rehabilitation plan
Reduces regression
Supports community settlement
Enhances Quality of Life
Provides avenues to employment
Gives purpose to life

Only 5 per cent of handicapped adults are receiving professional leisure or therapeutic recreation services.

Only 10 per cent of handicapped children are provided adapted physical education and therapeutic recreation service.

New models for leisure service for handicapped children and adults are emerging:

Voluntary Health Agency Program Model
Handicapped Recreation Association Model
Social Security Activity Program Model
Cooperative Recreation Department-School Model
Recreation Center for Seniors Model
Recreation Center for Handicapped Model in San Francisco, Washington, D.C., and Mountwood, West Virginia.
Leisure Center for Handicapped Model
TARID Center Model (technical assistance, research, information and demonstration)
Regional Recreation Program for Mentally Retarded Model

The barriers to development are:

Lack of direct service personnel.

Lack of advanced level personnel, masters and doctoral level.

Lack of leisure advocacy for handicapped.

Lack of single agency identification with leisure for handicapped. Rehabilitation agencies do not identify with leisure. Leisure agencies do not identify with handicapped.

Present day volunteerism, through activities such as the Wheelchair Games, Special Olympics, Cultural Festival for Handicapped, is to be encouraged. Leisure for handicapped consumerism is to be encouraged.

Many physical barriers serve to "lump and dump" the handicapped of America outside our parks and leisure facilities. The Federal government has opened up 266 of 286 national parks but the issue of accessibility is yet to be addressed at the state and local levels. I hope the Architectural Transportation Compliance Board will take an interest in this problem.

Some 30 research projects related to leisure, leisure employment and leisure service for handicapped have been conducted by the Rehabilitation Services Administration over the last 20 years. These are commendable but only about one-quarter of the job has been done.

From aide through administrator there are about 20,000 people working in leisure service for handicapped in the U.S. Up to 300 have received RSA Federally funded training. Only 1,500 hold professional ratings. There is need for technical information for 10,000, in-service training for 2,000, masters level preparation for 100, and doctoral level preparation for 25.

The leisure needs of the handicapped must be mandated in Federal legislation such as the Humanities and the Arts Acts, Community Education Act, and Outdoor Recreation Acts.

To support the development of adequate leisure opportunity and leisure service for America's 23,000,000 handicapped, $10,000,000 is needed for a five-year intensive effort in in-service training, technical assistance, technical information, demonstration and research. This will be the first step in assuring an Improved Quality of Life for the Handicapped of America.

[The prepared statement of Dr. Nesbitt accompanied by the documents referred to, follow:]

The Status of Recreation and Leisure Service
for ~~the~~ adult
Handicapped in Need of Rehabilitation Services

(Comments on the Status of Local Service, Needs
and Federal Activity in Recreation and Leisure
for the Handicapped)

by

John A. Nesbitt, Professor and Chairman
Recreation Education Program
University of Iowa
Iowa City, Iowa

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Attachments

A. Letter by Casper Weinberger, Secretary of Health, Education and Welfare, Washington, D.C., November 9, 1976, to Mr. Harold Russell, Chairman, The President's Committee on Employment of the Handicapped, Washington, D.C.
B. Letter by William M. Usdane, Assistant Commission for Program Development, June 11, 1975, to John A. Nesbitt, Chairman, Committee on Recreation and Leisure for the President's Committee on Employment of the Handicapped, Washington, D.C., and Federal Register, Vol. 40, No. 52, Monday, March 17, 1975.
C. Page 27 of Public Law 93-112, 93rd Congress, H.R. 8070, September 26, 1973, An Act, "Rehabilitation Act of 1973."
D. "Recreation for the Ill and Handicapped," by John A. Nesbitt, Leisure Today: in Journal of Health, Physical Education and Recreation, June, 1973.

I. Introduction

I wish to express my appreciation to the Chairman of the Subcommittee on the Handicapped, Senator Jennings Randolph, and the members of the Subcommittee for the invitation to present testimony with respect to the Rehabilitation Act of 1973, as amended (Public Law 93-516), in hearings to be held March 30, 1976, U.S. Senate, Washington, D.C.

In preparing my comments I have drawn on my experience as:

President-elect - National Consortium on Physical Education and Recreation for the Handicapped.

Chairman - Committee on Recreation and Leisure, U.S. President's Committee on Employment of the Handicapped.

President - National Therapeutic Recreation Society.

Member - Advisory Committee on Scouting for the Handicapped, Boy Scouts of America.

President - Santa Clara County Association on Recreation for the Handicapped.

I hope these observations will be of value to the Subcommittee on the Handicapped.

This invitation has provided an opportunity for review of the progress that has been made as well as considering present and anticipated needs, possible new goals and programs within a realistic appraisal of how we can best provide new horizons of human fulfillment.

Leisure, leisure participation and leisure service for handicapped as well as employment of the handicapped in leisure occupations are in many ways relatively new ideas. These ideas present new challenges and opportunities to the ill and handicapped, to the public, to many rehabilitation workers and to many national leaders.

The State of the Leisure Art -- Low Indeed!

Essentially, we are addressing two related, but separate issues:

1. Opportunity for cultural, recreational and leisure participation for people who are ill and handicapped.
2. Opportunity for employment of people who are handicapped in recreation and leisure services.

Opportunity to Participate

In my view, people who are handicapped are, in large part, being excluded from the recreation and leisure life of America, the more severe the handicap, the more complete the exclusion. Considering that recreation today represents a $150 - billion expenditure by Americans, the amount of exclusion becomes enormous. Aware as you are of the number of handicapped there are in our society, mentally estimate the number of handicapped you will see attending the San Francisco Opera, a New York Knicks game at Madison Square Garden, Chicago's Natural History Museum, your local park and recreation department recreation center, your neighborhood bowling alley. My personal surveys show pervasive exclusion of the handicapped.

Employment Opportunity in the Leisure Services

Public recreation and leisure service represent a work force of some 500,000 full time equivalents; commercial leisure service industires and services represent another 500,000. Taken together this is a full time equivalent work force of one million. Leisure services is an expanding industry. This presents an outstanding opportunity to provide vocational training and placement in a growth industry, in fact, an industry where the prediction is extraordinary growth. A recent survey by the U.S. President's Committee on Employment of the Handicapped in cooperation with the National Recreation and Park Association showed employment of the handicapped as .5 per cent. A start has been made and an enormous potential employment of handicapped exists.

Recreation - A Social Right

While we as Americans are guided by pragmatism and the results of research, our personal and social philosophies also guide our day to day behavior, our laws and legislation and our public institutions. Therefore, it is incumbent upon us to consider the philosophical issues involved in recreation for the handicapped. The following may give us some guidelines:

DECLARATION OF INDEPENDENCE

> We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.

Few countries enjoy, and relatively fewer people enjoy, the enormous welath that we do; but, the handicapped of America are in my view denied the opportunity to pursue happiness on a par with the able-bodied. When time after time people are denied access, are shunned socially, and are forced into isolation, the right to the pursuit of happiness is denied.

Recreation - A Rehabilitation Necessity

The Recreation and Leisure Dimension

I wish to state unequivocally that,

No rehabilitation, vocational rehabilitation, special education, therapeutic, medical or treatment plan is complete without attention to the individual's recreation and leisure needs and future.

Rehabilitation professionals are becoming increasingly aware that any inability to adapt socially will result in problems in educational, vocational, and social achievement. Recreation is being recognized as an ideal way to facilitate a man's or a woman's or a child's preparation to get along with his or her peers and to play game of life in general.

Recreation's Contribution to Rehabilitation

I wish to bring to your attention the conviction of professional recreation service personnel, in particular the specialty known as therapeutic recreation service, that recreation participation contributes directly and measurably to the following areas:

*Health, Physical Development and Condition

*Social Functioning

-Individual Social Adjustment and Functioning
-Family Situation and Functioning
-Community Situation and Functioning

*Mental Status and Achievement

*Ethical Development and Values

*Education and School

*Vocation and Work

Secondary Gains

There are three vitally important secondary gains that I see in this undertaking. First, through the pursuit of a direct interest in employment of the handicapped in recreation, the U.S. Rehabilitation Services Administration will have a means of increased direct involvement with the entire recreation and leisure service field, both public and private. I can see this involvement resulting in research, training and special support that will serve ultimately to increase the effectiveness of recreation services as part of the rehabilitation process, increase opportunities for ill and handicapped to participate in recreation, and increase our knowledge and capability in providing employment for handicapped in recreation.

Second, recognizing that many recreation doors are now closed to the handicapped, I believe that the involvement of recreation professionals in employing the handicapped in recreation will increase their awareness of the needs of the handicapped, and this will ultimately influence them to expand the recreation programs and opportunities provided to ill and handicapped. In general, this effort will serve to open recreation doors to the handicapped.

Third, I believe we must recognize that to many severely ill and handicapped persons, vocational settlement is not a realistic or likely result of rehabilitation. At present we are seeing the increasing hundreds, the increasing thousands, of ill and handicapped for whom a job is not available. I observe in community after community professional and lay leaders attempting to ignore this reality.

However, by directing our attention to the inherent basic worth of the individual and respecting the "product" that that individual is capable of, we can create a satisfactory and satisfying settlement through recreation. Why, may I ask, should anyone be ashamed of providing a worthwhile, well organized recreation program for a severely handicapped person who is unable to participate in educational or vocational activities? Further, let me assure you that a professionally designed therapeutic recreation program will result in enhanced independent functioning of the individual and will contribute to progression toward educational and vocational goals.

Conclusion

Recreation for the handicapped and employment of the handicapped in recreation are new ideas. They are not today's "common sense" as is special education which has experienced near incredible growth in the last 20 years. Nor are they common sense as is "hire-the-handicapped," which has been responsible for helping to open up employment opportunities for nine million men and women over the last 35 years. Nor are they the common sense of the Wheelchair Games or the Special Olympics. May I suggest that recreation for the handicapped and employment of the handicapped in recreation is not only a new idea but a milestone in our nation's growing ability to understand and respond to the needs of people, especially the handicapped. I predict that in 25 years recreation for the handicapped will be a common sense idea.

II. The Status of Leisure Service in the Federal System

First, I would draw your attention to a letter by Mr. Casper Weinberger, Secretary of the Department of Health, Education and Welfare, sent to Mr. Harold Russel, Chairman of the President's Committee on Employment of the Handicapped, November 9, 1973 in which Mr. Weinberger stated:

> Therapeutic recreation is essentially a process which utilizes recreation services for purposive intervention in some physical, emotional, or social behavior in order to bring about a desired change in that behavior and to promote the growth and development of the individual. Therapeutic recreation is based on a process which utilizes the development of recreational skills to assist in the achievement of overall service goals defined for the disabled individual. When provided by personnel qualified by appropriate training and experience, therapeutic recreation services contribute directly to building the disabled individual's physical strength, emotional growth, and self-confidence.
>
> The recreational therapist generally works cooperatively and in support of other rehabilitation specialists. It has been primarily through the professional training of qualified manpower that this Department has expressed its recognition of the therapeutic rehabilitation modality. Training in therapeutic recreation has been supported under the Vocational Rehabilitation Act for those interested in working with disabled adults and under the Education for the Handicapped Act for those planning to work with disabled children in special education settings.

Mr. Weinberger continued by stating that training of therapeutic recreation specialists had been supported through the Vocational Rehabilitation Act as well as the Education of the Handicapped Act; that therapeutic recreation service was recognized under the Rehabilitation Act of 1973 the Older Americans Comprehensive Services Amendments of 1973; and, that recreattional services are also considered one of the authorized services for developmentally disabled. (See Attachment A)-

You might also wish to refer to the regulations in Section 402.41 of the Federal Register, Vol. 40, March 17, 1975 (See Attachment B) and Section 304.(b) of Public Law 93-112 93rd Congress, H.R. 8070, Sept. 26, 1973, An Act (See Attachment C) in which recreation is specifically identified as an area for special projects, demonstration, research and evaluation in connection with demonstrating recreation activities fully accessible to the handicapped.

III. Needs of Handicapped in Leisure, for Leisure Participation, and for Leisure Service

According to the 1970 consus data, one out of 11 or 23,000,000 Americans are handicapped.

The Rehabilitation Services Administration provides service and rehabilitation leading to vocational placement for 325,000 to 350,000 handicapped a year.

The following figures are based on data prepared by the National Center for Health Statistics.

Aging (over 65)	20,000,000
Arthritis	18,300,000
Blind (legally blind)	1,500,000
Blind (visual impariment)	2,000,000
Deaf	1,800,000
Hard of Hearing	18,300,000
Deaf-Blind	5,000
Heart Conditions	7,600,000
Mentally Retarded	6,000,000
Menaally Ill	2,276,000
(In Hospitals - 753,000)	
(Community Care - 173,000)	
(Out-patient care - 1,390,000)	
Non-institutional	6,200,000
Using Orthopedic Aids	
(Wheelchair Users - 409,000)	
(Heavy Leg Braces - 1,100,000)	
(Canes, Walkers, Crutches - 2,900,000)	
Respiratory Ailments	14,500,000

The information I have on handicapped between the ages of 16 and 64, non-institutional population, who are employed or unemployed is as follows:

	Males	Females
Handicapped Employed	3,400,000	1,200,000
Handicapped Unemployed Employable	165,000	92,000
Handicapped Unemployed But Not in the Labor Force	488,000	1,200,000

We currently estimate that there are 8,000,000 school age handicapped children and youth in need of special education including physical education and recreation services. Currently, we estimate that there are 10,000,000 with learning disabilities.

What are the leisure problems that exist regarding handicapped. The following SUGGESTS some of the major problems encountered by large population groupings.

	Type(s)	Number(s)	Problem(s)
1.	One-in five for		
	Aged	4,000,000	Architectural barriers of all types limit these populations in the use of public, private and commercial leisure facilities, e.g., parks, recreation centers, museums, theaters, motels, bowling alleys, etc. Aged leisure time may total 13 hours a day.
	Arthritic	3,600,000	
	Heart	1,500,000	
	All orthopedic aid users	6,200,000	
		15,300,000	
2.	Blind	1,900,000	Significant adaptations and modifications are needed to make public facilities and programs accessible and appropriate.
	Deaf	1,500,000	
		3,300,000	
3.	Visual Impairment	2,000,000	Adaptations and modifications are needed; and, generally must be accomplished by the consumer. Thus, special training, aids, etc. are needed.
	Hearing Loss	18,300,000	
		20,300,000	
4.	Deaf-Blind	5,000	Full range of services needed, particular emphasis on eliminating social and attitudinal barriers to participation in leisure activities. Leisure time may range from 5 to 13 hours per day.
5.	Mentally Retarded	6,000,000	Full range of services needed, particular emphasis on eliminating social and attitudinal barriers to participation in leisure activities. Leisure time may range from 5 to 13 hours per day.
	Mentally Ill	2,276,000	
		8,276,000	
6.	Employed Handicapped	4,600,000	To enjoy the same quality of leisure as his/her non-handicapped peer, special means are needed to overcome the problem of time required, special and extra costs, adaptations, barriers (physical and social), etc.

7. Unemployed Handicapped	1,945,000	Enforced Leisure and essentially non-fulfilling time can be as high as 13 hours per day indicating the need for leisure services such as leisure counseling, leisure placement, etc.
8. Institutionalized or acute care	Not Known	Largely dependent on professional leisure services for leisure opportunity, leisure education, etc. After treatment individual may have 12 hours of enforced leisure per day.
9. Disabled and annually receiving rehabilitation services	325,000 to 350,000	Wide range of leisure, leisure participation and professional leisure service needs in relation to rehabilitation (medical, vocational, educational, and social). Specific service needs include special leisure education (instruction in means of meeting one's individual needs, achieving individual goals and interests), leisure counseling (process paralleling vocational rehabilitation counseling including leisure settlement as a parellel to vocational settlement), professionally organized and delivered therapeutic recreation service designed to move the client from 'dependence in leisure function' (caused by illness, injury, etc.) to 'independence in leisure', etc.; and, to contribute to all phases of the rehabilitation process, i.e., medical, vocational, educational, and social.

In many respects the public is not aware of the life patterns of the ill and handicapped. In Chart 1 I have attempted to suggest the relative quantities of leisure or open time that are 'forced' upon the ill and handicapped. There can be little question that people desire to lead fulfilling lives, where they gain the respect of their families, their associates, and society in general. But, the vast quantity of enforced leisure that accrues to the ill and handicapped may have little or no meaning. Recreation and leisure service for many ill and handicapped, for millions of ill and handicapped in fact, is far from being a frill or benevelance. Rather, it is a necessity.

Chart I.

Some Thoughts on Leisure and Leisure Service to Handicapped Adults
(From: Ott Rommy, Off the Job Living, A. S. Barnes and Co., 1945, p. 14.)

Hours	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Quality of Leisure	Leisure Service
Typical Pattern	EXISTENCE (biological requirements such as sleeping, eating, hygiene and so on) SUBSISTENCE (work-including travel time) LEISURE TIME 1 2 3 4 5 6 7 8 9 10// 1 2 3 4 5 6 7 8 9// 1 2 3 4 5 EEEEEEEEEEEEEEEEEEEEEEEEEEEE SSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSS LLLLLLLLLLLLLLLLL	Normative	
Category I Number Not Known	Full Employment, Full Function 1 2 3 4 5 6 7 8 9 10// 1 2 3 4 5 6 7 8 9// 1 2 3 4 5 EEEEEEEEEEEEEEEEEEEEEEEEEEEE SSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSS LLLLLLLLLLLLLLLLL	Normative	(1)
Category II 4,600,000* Actual	Full Employment, Impaired Function 1 2 3 4 5 6 7 8 9 10// 1 2 3 4 5 6 7 8 9// 1 2 3 4 5 EEEEEEEEEEEEEEEEEEEEEEEEEEEE SSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSSS LLLLLLLLLLLLLLLLL	Limited Quality Participation	(2)
Category III Number Not Known	Part-time Employment, Limited Function 1 2 3 4 5 6 7 8 9 10// 1 2 3 4 5// 1 2 3 4 5 6 7 8 9 EEEEEEEEEEEEEEEEEEEEEEEEEEEE SSSSSSSSSSSSSSSSSS LLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLL	Low Quality Participation	
Category IV 1,945,000 Actual	Marginal or Unemployed, Very limited function. 1 2 3 4 5 6 7 8 9 10// 1 2// 1 2 3 4 5 6 7 8 9 10 11 12 13 EEEEEEEEEEEEEEEEEEEEEEEEEEEE SSSSSS LLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLL	Very Low Quality Participation	
Category V Number Not Known	Institutionalized or Acute Care, Very Limited Function 1 2 3 4 5 6 7 8 9 10// 1 2 3// 1 2 3 4 5 6 7 8 9 10 11 12 EEEEEEEEEEEEEEEEEEEEEEEEEEEE SSSSSSSSSS LLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLLL	From Normative to Low Quality Participation	(3)

* 200,00 employed in sheltered employment

(1) Limited Special Service Needs
(2) 2,000 Personnel Providing Leisure Service to 5% of the Handicapped Population
(3) 18,000 Personnel Providing Leisure Services

IV. The Benefits of Recreation and Leisure for Handicapped

Leisure activities for the adult handicapped persons in need of rehabilitation services take the following form:

1. Aquatics/Swimming
2. Crafts
3. Cultural/Ethnic Activities
4. Art - Graphics
5. Dance
6. Dramatics
7. Entertainment
8. Educational Activities
9. Fitness
10. Leisure Education
11. Leisure Counseling
12. Leisure Careers Education
13. Leisure Careers Guidance
14. Mental/Literary/Games
15. Music
16. Outdoor/Nature Recreation
17. Social/Organizational Activities
18. Special Events
19. Sports - Individual Non-Competitive
20. Sports - Individual Competitive
21. Sports - Team Competitive
22. Travel/Tourism
23. Voluntary Service

The BENEFITS OF LEISURE, LEISURE PARTICIPATION and LEISURE SERVICE are more important to the handicapped person than they are to the non handicapped. I see the BENEFITS as follows:

I. Compensatory Benefits

A. Provides means of overcoming or compensating the individual's limitations caused by disease, injury, or disability. Limitations may be physical, social or mental. Limitations may be compounded by low socio-economic status.

B. Provides means of overcoming public barriers - physical, social or attitudinal.

C. Provides special adaptations or compensations regarding transportation, communication, money, insurance, and so on.

II. Therapeutic Benefits

A. Provides escape from the physical pain and mental anguish of disease, injury, treatment, hospitalization, isolation, and boredom.

B. Provides social, emotional and personal acceptance, adaptation, release, adjustment, stimulation, independence, growth and normalization.

C. Provides health and physical benefits.

III. Educational and Vocational Benefits

A. Provides educational and pre-vocational learning, experience, and integration in a major industry-occupational cluster.

B. Provides vocational and professional opportunities and placement.

IV. Community Settlement Benefits

A. Provides a worthwhile and necessary balance to work and work-related activities (the leisure activities being "compensatory", "therapeutic", or "fulfilling").

B. Provides means for community participation, integration and normalization.

V. Personal and Political Fulfillment Benefits

A. Provides personal fulfillment and self-actualization at the highest possible level through aesthetic, creative, expressive, physical, social and spiritual activities.

B. Provides individual human and civil rights through the achievement of equitable opportunity and participation in the mainstream of American Life.

VI. Benefits for Moderately and Severely Handicapped; For Partially, Marginally of Unemployed Handicapped

A. Provides compensatory personal and political fulfillment.

(If employment and a professional career or vocational pursuit are limited or not possible, leisure becomes a primary means or the primary means of pursuing personal fulfillment. The non-handicapped person achieves this sense of personal fulfillment through work and work-related social and community activities. Leisure pursuits must compensate for the handicapped person's loss of self-esteem that is caused by unemployment, marginal employment or employment below one's capacity.

VII. Cost Benefits

A. Provides support for treatment or rehabilitation plan.

(The absence or lack of adequate leisure settlement of an ill or handicapped person, particularly the emotionally disturbed person, can cause problems, disruption, or failure in the social adjustment and rehabilitation plan. The cost of rehabilitation is thus increased; or, viewed differently, the investment in the person may be lost partially or totally for lack of attention to the individual's total needs including leisure, in and out of treatment, on and off the job.)

B. Provides means of reducing regression.

(The absence or lack of adequate leisure services and opportunities for institutionalized handicapped results in social, physical and mental regression. This regression increases the actual costs on a daily, monthly or annual basis involved in treatment, rehabilitation, training and so on as well as lengthening the total institutionalization time.)

C. Provides community settlement skills.

(The failure to provide institutionalized ill and disabled with community leisure skills, opportunities and experiences results in higher costs when actual community settlement takes place. This cost may include the failure of the community placement and the consequent return to the treatment facility.

D. Provides means of directly effecting quality of life of handicapped.

(The handicapped person's leisure life experience can be measured quantitatively and qualitatively; and, leisure education, leisure guidance, leisure placement and professional leisure service costs can be correlated with a high quality of leisure life as well as a moderate or a low quality of leisure life. Reasonable expectations of vocational potentials are made for individuals along with estimates of costs to achieve that potential when making decisions in a vocational rehabilitation plan. Similar reasonable expectations can be drawn for leisure potential and the relative costs in relation to successful versus unsuccessful vocational or community placement and quality of life.)

E. Provides an additional avenue for employment, leaving welfare roles and becoming a taxpayer.

F. Provides stimulation and purposeful activity needed to maintain an active interest in one's surroundings, in one's health, in social relationships, in work and life which in turn is supportive to other maintenance, health and rehabilitation services and therapies.

V. The Status of Local Service for Leisure for Handicapped

First, let me state that it is well recognized that recreation and park departments and local community agencies are concerned about developing recreation and leisure programs for the handicapped. And, many outstanding programs have been developed. However, I am sure that all of us would concur that we would like to see further initiation, expansion and improvement of recreation programs for handicapped. A recent survey by the National Recreation and Park Association obtained information that suggests that up to 35% of local recreation and park departments provide some form of service to handicapped.

However, the concensus that has emerged among professional personnel providing therapeutic recreation services and leisure services for handicapped in local communities is that:

> Only five (5) per cent of handicapped adults are being provided professional local recreation and park service.
>
> Only ten (10) per cent of handicapped school age children and youth are receiving professional physical education and recreation service.

Some Models for Delivery of Service Exist

In general professional personnel in recreation and leisure of handicapped have attempted to facilitate an exchange of information on models (new feasible plans) for the delivery of recreation service to handicapped in local communities. Realistically, program planning that failed to include specific measures to provide financial support were largely a waste of time. Therefore, we sought to identify models that were feasible, that incorporated funding possibilities as well as content. Specifically, we identified the following feasible program models:

1. Voluntary Health Agency Recreation Program Model.
2. Community Recreation for Handicapped Association Model.
3. ATD Municipal Recreation Program Model.
4. Cooperative Recreation Department - School Recreation Program Model.
5. Municipal Recreation Senior Education Center Model.
6. Leisure Center for the Handicapped Model.
7. Leisure Center for the Handicapped Model.
8. Therapeutic Recreation Service TARID Center Model (Technical Assistance, Research, Information and Demonstration).
9. Regional Center for Mentally Retarded Recreation Service Model.

Barriers to Program Development

Among the major barriers to program development are the following:

- Lack of basic personnel trained to:

1. design, plan, organize, implement, and evaluate qualitative recreation and leisure programs which provide personal fulfillment and self identity through recreation as an end unto itself, and:
2. deliver measurable progress by ill and handicapped individuals towards personal and social growth and independence.

- Lack of advanced personnel prepared to direct broad development of program and service, conduct research and demonstration, evaluation, etc.
- Lack of advocacy relative to generating funds and to the creation of local and state public programs designed to meet the recreation and leisure needs of the ill and handicapped.
- No local community agency or institution or state agency or service has yet responded adequately to the profound need for recreation and leisure fulfillment of the literally thousands of mentally ill and mentally retarded who are returning to our communities; and thousands upon thousands of physically handicapped continue to be shut out from the mainstream of recreational, cultural and leisure experience, an experience which has become a major feature of our contemporary American way of life.

With health, welfare, education and rehabilitation agencies moving increasingly into the community, giving increasing emphasis to community settlement rather than institutionalization, with integration of the ill and handicapped into the community becoming a general social goal, and with personal fulfillment increasingly becoming a goal of society and helping agencies, at no time in our history has recreation and leisure for the handicapped had a more basic role to perform than it does today.

While funds are limited through local tax support, the potential exists to win public support to provide funds for recreation service for the ill and handicapped living in our local communities, there is a profound need to provide leisure facilities, research, training, demonstration and so on. Supplementing this is the need to work with adult education, vocational eudcation for handicapped, and other on-going programs and services that serve the handicapped.

Volunteerism and Consumerism in Leisure for Handicapped

One of the most dramatic and inspiring features of the leisure for handicapped movement has been the success of various consumer-volunteer assisted activities such as Wheelchair Athletics, Special Olympics, and Cultural Festivals for the Handicapped. I would hope that the Federal efforts in volunteerism might be encouraged to consider means of promoting volunteerism in the leisure for handicapped movement.

Another dramatic feature is the emergence of handicapped consumer-leisure groups. I personally had the privilege of being a "pusher" for the First Public Equal Right Demonstration by the Handicapped at the Congress of the United States in May 1972. I hope these activities might also be encouraged.

The Barrier Battle

We in the United States of America are now starting to come to grips with the issue of architectural barriers in leisure facilities. Our public buildings literally lock out the handicapped. Our public parks literally "lump and dump" the handicapped of America outside their boundaries. While significant progress has been made in opening 266 of 286 National Parks by the National Park Service of the Department of the Interior, the issue of accessiblity is yet to be addressed at the state and local levels.

I hope that the Architectural Transportation Barriers Compliance Board will directly address the issue of accessiblity to leisure facilities.

VI. The Status of Leisure Opportunity and Employment Research for Adult Handicapped in Need of Rehabilitation Services.

Leisure for the handicapped is a significantly underresearched area. We should reocgnize that leisure consumption in various forms in the United States totals $150 billion a year. Many believe we have arrived in a "leisure age" of sorts. And, for literally millions of handicapped "open time" is the resource they have in greatest abundance.

A start, indeed, has been made in research in leisure for the handicapped. In particular, I would commend the efforts of Ms. Mary Switzer, Dr. James F. Garrett, Mrs. Beatrice Hill, the staffs of: Comeback, Inc., the National Recreation Association, the Recreation Department at Southern Illinois University, the World Rehabilitation Fund, the Smithsonian Institution and various rehabilitation centers, state vocational services and so on.

There have been 30 U.S. and three international research projects that relate to recreation or leisure for disabled conducted through the Vocational Rehabilitation Program. These projects have related to blind, cardiac, deaf, deaf-blind, homebound, educable mentally retarded, trainable mentally retarded, handicapped mothers, mentally ill, paraplegics and physically handicapped.

In relation to employment in the leisure services industry or personal fulfillment for handicapped, the content areas included: art, camping and nature, careers and employment (piano tuning, greenhouse, handicrafts), community resources, fitness, games, homebound, information (technical and program), leading recreation, museums, music, recreation in rehabilitation centers and services, theater, sheltered employment and television.

While a very important start has been made, the insight and knowledge that exists today is not adequate. We must better understand the phenomena of leisure in relation to the handicapped, we must better understand the means of facilitating participation in leisure of the handicapped and we must develop better means of providing leisure service to the handicapped.

Through technology and medical and rehabilitation services we added hours, days, and years to the lives of the handicapped. Now, it follows that we have the obligation to give meaning to those years.

I believe that a research and demonstration plan should be developed and implemented which will yield insight into:

I. The Quality of Life in Leisure of the Ill and Handicapped.

II. The Contributions of Leisure, Leisure Participation and Leisure Service to the Health, Rehabilitation, Vocational Training, Employment and Social Functioning of the Ill and Handicapped.

III. The Means and Methods of Enriching the Quality of Life in Leisure of Ill and Handicapped through the Organization and Delivery of Leisure Services at the Local, County and State Levels.

IV. The Means and Methods of Enhancing Opportunities for Employment of Handicapped in Leisure Service Occupations.

I would recommend that the research and demonstration that is conducted be carried out with a view to reporting to the Congress.

VII. The Status of Leisure Service Training in Relation to the Adult Handicapped in Need of Rehabilitation Services

The field of therapeutic recreation service has developed rapidly in the last 10 years. The existing work force has not kept pace with developments. Major needs include the following:

1. Training to provide direct attention to the handicapped adult in need of rehabilitation service in terms of short-range and long-range planning, coordination, development, administration, etc.
2. Training in new practices and methods for rehabilitation and community settlement of adult disabled such as Leisure Education, Leisure Counseling, Leisure Settlement, Leisure Advocacy, Leisure Consumerism, evaluation and assessment, new methods of community organizations, e.g. associations for leisure for handicapped, etc.
3. Training and technical assistance in program development, including funding professional leisure services and facilities using Federal, Federal-state and local resources.

Please note that the work force in therapeutic recreation service is estimated at 20,000. Of this force, I estimate slightly over 300 currently in the field have received professional training through the Vocational Rehabilitation Research and Training Program. Further, please note that the 20,000 work force has only approximately 1,500 professionally registered personnel. My view is that long-range development calls for professional training in relation to the handicapped adult in need of rehabilitation service. In the immediate, three-year future, an intensive effort in in-service training is needed for the 18,000 personnel whose training and professional status are less than current needs call for.

The specific training goals that I propose in relation to the above needs are:

I. Increase knowledge of up to 10,000 practitioners through dissemination of critical, interpretive, and operational professional and technical information.

II. Train up to 2,000 current practitioners through in-service institutes, workshops, etc.

III. Train 100 masters level personnel (two per state) for service as state consultants in leisure for adult handicapped in need of rehabilitation services.

IV. Train 25 doctoral level personnel in research, evaluation, diagnosis, teaching, and program development competencies to provide nationwide leadership in relation to leisure for the adult handicapped in need of rehabilitation services.

Table I.

Research and Demonstration Related to Recreation and Leisure

A review of research and demonstration supported by the Vocational Rehabilitation Program yields the reports of the following activities:

Deaf	Art for the Deaf: Vocational and Cultural Fulfillment (RD-868-61-1; 1961)
Mentally Retarded	Art for Retarded Teenagers Girls: Adjustment, Homemaking, Recreational-Arts Curriculum (SRD 00957. 04; 1974)
Mentally Retarded	Camping and Leisure Time Activities for Mentally Retarded (1435. 03; 1969)
Handicapped	Community Resources for Recreation for Handicapped including TV and Educational TV (RD-0858.00-G;1962)
Deaf-Blind	Recreation Services for Deaf-Blind in Rehabilitation of Deaf-Blind (0096.00; 1959)
Handicapped	Employment of Handicapped in Recreation and Leisure (no number)
Mentally Retarded	Fitness for Mentally Retarded (1554.00; 1964)
Heart	Fitness for Persons with Myocardial Infraction (1994-M-67-3; 1967)
Homebound	Meeting Social-Psychological Needs of Homebound through Recreation Experience (0513.00, 1960)
Home Care	Recreation and Work Therapy on a Home Care Program (0067.01; 1961)
Mentally Retarded	Information Center for Recreation for Handicapped (Camp, Day Camp, Active Games, Volunteers, Diversified Games) (1554.00; 1964)
Mentally Retarded	Leading Recreation for Mentally Retarded (Film: 2039-P-66-1; 1966)
Blind	Leisure Service Careers - Piano Tuning Technician Training for Blind (567-60-3, 1960)
Blind	Leisure Service Careers - Greenhouse/Nursery Work for Blind (5-55-4; 1955)
Handicapped	Leisure Counseling: Avocational Interest Inventory (2537.02; 1968)
Mentally Retarded	Mentally Retarded - Recreation Program Digests (RD2209-G-67-3; 1967)
Mentally Retarded	Mentally Retarded - Recreation Services in Rehabilitation (RT16.02; 1970)
Blind	Music Therapy for Adult Blind (0031.00; 1957)
Blind	Museum Exhibit for the Blind: An Experimental Exhibit (2185-5-65-1; 1966)
Blind	Museum Exhibit for the Blind: Planning Operation (RD-2459.00; 1968)
Handicapped	Play Experiences Handicapped Mothers Share with Their Children (0037.00; 1970)
Mentally Ill	Plays for Rehabilitation - Mentally Ill (RC-1-61-1; 1961) (RC09.00; 1961)
Mentally Retarded	Plays for Rehabilitation - Mentally Retarded (RC11.00; 1962)
Heart	Plays for Rehabilitation - Stroke Patients (RC25.00; 1964) (RC26.00; 1964)
Deafness	Plays for Rehabilitation - Hearing Loss (RC-36-65-1; 1965)
Handicapped	Rehabilitation Center Recreation: Development of Service (2702.00; 1967)
Handicapped	Rehabilitation Center Recreation: Status and Improvement (2325-G-67-1; 1967)
Handicapped	Recreation Service for Clients of Sheltered Workshop (0437.00; 1959)
Handicapped	Television for Disabled
Deaf	Theater for the Deaf: Nonoral Repertory Theater as a Vocational and Cultural Enrichment Opportunity (21315-S-65-1; 1966)
International	
Paraplegic	Influence of Sports on Rehabilitation of Paralytic Subjects (International, Israel, 5/64-6/67)
Deaf	Techniques of Rehabilitating Deaf by Vocational Guidance Including Indigenous Grafts Training (International, India, 3/65-11/68)
Paraplegics	Methods of Rehabilitation of Severely Disabled and Paraplegics including Teaching of Indigenous Handicrafts (International, Israel, 6/61-12/66)

VIII. The Need to Mandate Leisure for Handicapped at the Federal Level

I must bring to your attention the critical need that exists to mandate "a share" for the handicapped in non-categorical legislation, programs, and administration.

My experience in working with representatives of rehabilitation in some 65 counties tells me that if handicapped are going to get their share, leadership must come from the national and Federal level. In nation after nation it is the national leadership that points the way and provides the funds that are necessary.

The leisure for handicapped movement in the United States lagged behind other areas such as medical rehabilitation, educational rehabilitation, and vocational rehabilitation. First, the medical and vocational programs were not designed initially to solve the leisure problem. Second, the recreation, park, cultural and leisure related Federal agencies - some 50 of them - have avoided the handicapped.

Specifically, let me sight the current Federal effort in the Humanities and the Arts which in my view should have addressed itself categorically from its inception to the ill and handicapped. Its current efforts to designate a percentage of its funds and a specified administrative effort to the handicapped are quite appropriate. But, this was not mandated legislatively as it should have been.

Let me sight the recent Community Education legislation as another program which does not address, categorically, the needs of the handicapped.

I am pleased to report that there is some movement by the Federal rehabilitation agencies to deal with leisure. And, there is some movement by the Federal park and recreation agencies to deal with the handicapped. The individual workers and administrative units who are making the effort are to be commended. But, more help is needed.

I hope that some means may be found whereby leisure-related legislation at its inception will include the needs and interests of the handicapped. If some means is not found let me assure you that another 25 or 50 years will go by and we won't make very much progress beyond where we are right now.

I hope some means can be found to protect and promote the fulfillment of the leisure needs and interests of the handicapped.

IX. Program Development through Research, Demonstration and Training

I perceive the handicapped needs, program deficiencies and problems that we have reviewed as being met through pursuit of three goals:

I. Improve the Quality of the Leisure Life of the Handicapped.

II. Improve the Delivery of Leisure Service to and for the Handicapped.

III. Improve Opportunities for Employment of Handicapped in Leisure Service Occupations.

I address this subject - program development - in an article in June, 1973 entitled "Recreation for the Ill and Handicapped." In that article I called for: (See Attachment D)

- Federal Leadership and Coordination
- 100 Local Demonstrations
- In-Service Training
- Development of State Level Service
- Professional Training
- Research

Essentially, I am proposing the use of these same means to achieve development.

I. Federal Leadership

It is very important some means be provided which will mandate the leisure interests and needs of the handicapped. If this mandating does take place, Federal agencies and bureaus will enhance their activities. At the present time there are some 10 Federal agencies coordinating their efforts regarding leisure for the handicapped. The number doing this should be increased. Mandating the leisure needs and interests of the handicapped through and in conjunction with legislation will be a major advance.

It would be a great step forward in meeting the leisure needs of all ill and handicapped if a Secretary of the Department of Health, Education and Welfare level Advisory Committee were established to review needs, consider the status of Federal programs and services and make recommendations to this Subcommittee.

II. Research, Demonstration and Training

Considering the needs of individuals who are handicapped, the status of research, professional preparation and service needs, as well as the experience that has been gained in the development of services and programs for handicapped over the last 30 years, the foremost means of advancing rehabilitation programs and services that will meet the leisure needs of handicapped is the regional research, demonstration and in-service training center concept coupled with a state level research and demonstration program.

The purposes which the Regional Research, Demonstration and Training Centers would pursue would be:

1. Provide assistance to states within respective regions in program and service development through advisory and planning services and the the development of guidelines for programs and services.
2. Plan and conduct research, demonstration and related activities in the rehabilitation of handicapped individuals in relation to leisure, leisure participation and leisure service.
3. Plan and conduct courses of in-service training and related activities for rehabilitation and leisure service personnel in leisure participation of handicapped individuals and leisure service for handicapped individuals; and, develop improved methods of providing such in-service training.
4. Plan and conduct dissemination of technical and professional information on leisure in relation to handicapping conditions, leisure participation for handicapped and leisure service for handicapped.
5. Plan and conduct evaluation of advisory and planning services; research, demonstration, training, dissemination of information and the development of guidelines.

I propose that five Regional Centers be established for a five year period. Each of five Centers would serve approximately one-fifth of the nation's population through a regional division of the states. These Centers would have the professional and support accountability as well as resources to provide the following services: advisory and planning, research and demonstration, training, dissemination of information and evaluation.

The Regional Centers would articulate with other types of rehabilitation centers, institutes and services and focus, as possible, on research utilization. Specific procedures should be designed to involve handicapped consumers in an advisory capacity and, as possible, to employ handicapped professionals.

A special program of state level research and demonstration would provide the Regional Centers with means whereby they could plan and conduct state level and local level projects in their respective states. This effort would be oriented particularly to research and demonstration of the means and methods of enhancing leisure participation and service for handicapped and employment of handicapped in leisure service occupations. I should point out that I estimate that states and local committees are suing only about "1%" of the Federal funds that are available for leisure service for handicapped. Further, I would estimate that only about "5%" of the local public funds that could be available for leisure for handicapped are being used. These local and state level demonstrations would not only enhance the scientific base for leisure for handicapped and enhance professional insight, they would also demonstrate to the handicapped and the public how programs can be developed and paid for.

III. Professional Preparation

The plan proposed here is one which invests the final authority and responsibilities at the local and state levels. However, leadership and expertise are factors that must be taken into account and provided for. The leadership and expertise that I am concerned about is of two types:

A. State level
B. National and Professional

Regarding state level. It would be desirable that at least two masters level personnel be available in each state to guide program development. Special training is needed as such personnel are not now available.

Regarding National and professional leadership, there is a need for the preparation of some 25 doctoral level personnel who would disperse themselves across the nation at colleges and universities. They would then have the competence and function whereby they could provide direct leadership through their teaching, continue to expand upon the body of knowledge through research and study and could provide national and professional leadership.

Five Year Plan for Regional Centers and State Level Demonstration

	Planning and Evaluation	5 Regional Research and Demonstration Centers	50 State level Research and Demonstration Programs	
Initial Phase	50,000			50,000
First Year		$500,000		1,000,000
Second Year		500,000	$2,500,000	3,500,000
Third Year		500,000	2,500,000	3,500,000
Fourth Year		500,000	2,500,000	3,500,000
Fifth Year		500,000		1,000,000
Final Phase	50,000			50,000
Total	$100,000	$2,500,000	$7,500,000	$10,100,000

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

Attachment A
page 1

Mr. Harold Russell
Chairman
The President's Committee
on Employment of the Handicapped
Washington, D.C. 20210

Dear Mr. Russell:

Thank you for your letter of August 10 (your Ref. 44) concerning the field of therapeutic recreation and its role in the delivery of health, education, and social services to disabled persons. Please accept my apology for the delay in responding.

Therapeutic recreation is essentially a process which utilizes recreation services for purposive intervention in some physical, emotional, or social behavior in order to bring about a desired change in that behavior and to promote the growth and development of the individual. Therapeutic recreation is based on a process which utilizes the development of recreational skills to assist in the achievement of overall service goals defined for the disabled individual. When provided by personnel qualified by appropriate training and experience, therapeutic recreation services contribute directly to building the disabled individual's physical strength, emotional growth, and social self-confidence.

The recreational therapist generally works cooperatively and in support of other rehabilitation specialists. It has been primarily through the professional training of qualified manpower that this Department has expressed its recognition of the therapeutic rehabilitation modality. Training in therapeutic recreation has been supported under the Vocational Rehabilitation Act for those interested in working with disabled adults and under the Education for the Handicapped Act for those planning to work with disabled children in special education settings.

Although therapeutic recreation may not be specifically identified as a health-related service under the regulations for social services to be issued for Titles IV and XVI of the Social Security Act, recreational services are so recognized in other service programs administered by this Department. Under the newly enacted Rehabilitation Act of 1973, a rehabilitation facility is defined in a number of ways, including a facility "...which provides... prevocational conditioning and recreational therapy." This means that facilities primarily providing therapeutic recreation services are eligible for Federal or State vocational rehabilitation agency support.

The Older Americans Comprehensive Services Amendments of 1973 include recreational services as optional social services within a comprehensive and coordinated service system for older persons. Similarly, in service programs for the developmentally disabled, recreational services are also considered one of the authorized services for which funds can be expended in order to promote a developmentally disabled youngster's physical health and social interaction.

We very much appreciate your interest in therapeutic recreation services, and we want to assure you that we share your concern that these important supportive services be available where they are needed.

Sincerely,

Caspar W Weinberger
Secretary

Attach

Attachment B
page 1

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

Office of Human Development
Rehabilitation Services Administration

JUN 11 1975

John A. Nesbitt, Ed.D.
Chairman, Committee on Recreation
and Leisure
The President's Committee on
Employment of the Handicapped
Washington, D. C. 20210

Dear Dr. Nesbitt:

In response to your request of May 28, I am enclosing a copy of the proposed regulations for the Rehabilitation Act Amendments of 1974 which were published in the Federal Register on March 17. These proposed regulations cover the special projects and demonstrations for demonstrating methods of making recreational facilities fully accessible to handicapped individuals.

Sincerely yours,

William M. Usdane
Assistant Commissioner
for Program Development

Enclosure

timetables, and complaint and enforcement procedures to assure such equal opportunities. Such construction contracts will also comply with all requirements concerning nondiscrimination of handicapped individuals specified in regulations developed pursuant to section 504 of the Act.

23. Section 402.30 is revised as follows:

§ 402.30 Right to recover Federal funds.

If, within 20 years after completion of any construction project, or a project which involves construction, for which funds have been paid under this part, the facility shall cease to be a public or other nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the U.S. district court for the district in which such facility is situated) of the facility, as the amount which the Federal participation bore to the cost of construction of such facility.

24. In § 402.41, paragraphs (a), (c), and (d) are revised and paragraph (i) is added as follows:

§ 402.41 Special projects and demonstrations; new approaches to service delivery; making recreational activities accessible to the handicapped.

(a) *Purpose.* Under section 304(b)(1) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations, and research and evaluation in connection with such special projects and demonstrations, for applying new types or patterns of services or devices, including opportunities for new careers for handicapped individuals or other individuals in programs serving handicapped individuals. Under section 304(b)(2) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations and research and evaluation in connection with such special projects and demonstrations, for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals.

* * * * *

(c) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project. The Federal share of the cost of renovation or construction of facilities shall be equal to the share provided for under § 402.51(c). In projects and demonstrations providing new career opportunities, grantees will be expected to assume an increasing percentage of the new careerist expenses in order to assure that employment commitments will be met.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 402.6 and may also be available for:

(1) New careerist salary and training expenses;

(2) Necessary supportive services to enable new careerists to assure employment; and

(3) In the case of a project which involves the renovation of construction of facilities, such costs as are specified in § 402.51(d).

* * * * *

(i) *Special considerations in projects and demonstrations for making recreational activities accessible to the handicapped.*

Approved projects to demonstrate methods of making recreational activities fully accessible to handicapped individuals shall include provisions to:

(1) Ensure conformance with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1–1961, as modified by other standards prescribed by the Secretary of Housing and Urban Development (24 CFR [illegible]) or the Administrator of General Services (41 CFR 101-19.600) and any other standards established by the Commissioner relating to the removal of architectural or transportation barriers;

(2) Focus on as broad a range of recreational activities as is appropriate to the geographical area, including indoor and outdoor recreational activities and recreational activities related to the fine arts;

(3) Ensure in those projects in which renovation or construction of facilities is involved, that such renovation or construction shall conform with all requirements specified under § 402.51(c)–(g) of this part.

25. In § 402.51, paragraph (f)(1)(ii) is revised as follows:

§ 402.51 Grants for construction of rehabilitation facilities.

* * * * *

(f) * * *

(ii) That the applicant will provide a set of plans and specifications for the proposed project which have been approved by the Architectural and Transportation Barriers Compliance Board and in which due consideration shall be given to excellence of architecture and design; and

* * * * *

26. In § 402.61, paragraph (b) is revised as follows:

§ 402.61 Rehabilitation research and demonstration.

* * * * *

(b) *Scope of activities.* Projects supported under this section may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing disability, ways of ameliorating handicapping conditions, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic and other factors affecting the rehabilitation of handicapped individuals; studies of special problems of homebound and institutionalized in-

(i) Special considerations in projects and demonstrations for making recreation activities accessible to the handicapped.

Approved projects to demonstrate methods of making recreational activities fully accessible to handicapped individuals shall include provisions to:

(1) Ensure conformance with the "American Standards Specifications for making buildings and facilities accessible to, and usable by, the physically handicapped," No. A 117.1-1961, as modified by other standards prescribed by the Secretary of Housing and Urban Development....

(2) Focus on as broad a range of recreational activities as is appropriate to the geographical area including indoor and outdoor recreational activities and recreational activities related to the fine arts;

(3) Ensure in those projects in which renovation or construction of facilities is involved, that such renovation or construction shall conform with all requirements specified under Subsection 402.51(c)-(g) of this part.

Attachment C

(2) The general expenses of the operations of the Rehabilitation Services Administration relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

Unused funds.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Rehabilitation Services Administration with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Commissioner may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

Debentures, purchase authority.

(4) Premium charges, adjusted premium charges, and appraisals and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments, and adjustments, and expense incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

Appropriation.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed $200,000,000.

SPECIAL PROJECTS AND DEMONSTRATIONS

Appropriations.

SEC. 304. (a)(1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, and $17,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 5 per centum in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such subsection an amount of $1,000,000 to be available for each such fiscal year.

(b) The Secretary, subject to the provisions of section 306, shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps) including individuals with spinal cord injuries, older blind individuals, and deaf individuals, whose maximum vocational potential has not been reached, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals for other individuals in programs servicing handicapped individuals). Projects and demonstrations providing services to individuals with spinal cord injuries shall include provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(D) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

Handicapped migratory agricultural workers and seasonal farm workers.
Ante, p. 363.

(c) The Secretary, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

84 Stat. 1100
20 USC 236.
81 Stat. 709.
42 USC 2961.
79 Stat. 920.
7 USC 2041 no
Employment programs, contract authority.

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment.

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Attachment D

"Recreation for the Ill and Handicapped"
by John A. Nesbitt

LEISURE TODAY, in Journal of Health, Physical Education and Recreation, June, 1973.

Recreation for the ill and handicapped now represents a vast, unmapped nationwide movement. It consists of hundreds of organizations and many thousands of individuals, both lay and professional, concerned with the need to provide the handicapped in our society with equal opportunity for participation in recreation, parks, and cultural pursuits.

The ill and handicapped population includes 20 million aging persons, five million mentally retarded, two million mentally ill, and 25 million physically or sensorily handicapped persons with limited ability to participate in recreational programs. Seven million of these individuals are of school age.

The handicapped individual is usually sufficiently atypical to be barred from independent, voluntary participation in recreation. In many cases, physical facilities have built-in barriers that make them inaccessible to the nonambulatory. In other cases, the barriers are social or psychological, either because the handicapped person is rejected by "normal" participants or because he lacks the degree of confidence and skill needed to enter programs. Often the barriers are economic, with disabled persons lacking the means of transportation needed to reach facilities.

The term "handicapped" itself represents an oversimplification. Individuals suffering from disability have a broad continuum of skills. There are star wheelchair athletes, musicians, and artists—as well as many others who lack any capability or experience in the recreation field. Some individuals have been educationally and vocationally rehabilitated, but still require special arrangements in order to be able to take advantage of available community programs. Others, numbering in the millions, are institutionalized in hospitals, nursing homes, or extended-care facilities; their leisure is endless and enforced, and their need for special recreation service is profound.

For all handicapped persons, recreation represents a means of overcoming one's disability by discovering new talents, skills, and forms of personal expression. It offers the opportunity for social interaction with others, for physical development, and for emotional release; for many handicapped individuals, it is the key to successful independent living in the community.

The Therapeutic Recreation Movement

The therapeutic recreation movement consists of people and organizations. In addition to thousands of specialists in institutions, there are even greater numbers who provide services in community agencies. Many categories of workers who are not therapeutic recreation specialists—such as art, music or dance therapists, occupational therapists, or social workers—also provide recreation for the handicapped.

Representing the professionals in this field, the National Therapeutic Recreation Society was established as a branch of the National Recreation and Park Association in 1965, merging several different organizations which had been active in this field. NTRS today plays a key role in stimulating research, holding conferences, developing personnel standards, publishing reports, and promoting needed legislation in therapeutic recreation service.

There are many voluntary health agencies throughout the nation which provide support for recreation, including the American Foundation for the Blind, the National Easter Seal Society for Crippled Children and Adults, and the National Association for Retarded Children. Such organizations collectively spend millions of dollars each year providing recreations and camping for the handicapped. In addition, some 25 national youth or voluntary organizations, such as the Boy Scouts of America or the YM and YWCA, provide special support to recreation for the handicapped. Other specialized organizations on the national scene include the American Athletic Association for the Deaf, the American Wheelchair Basketball Association, and the American Blind Bowling Association.

The full extent of all activities provided by these and hundreds of similar organizations is not known. A thorough survey of the numbers reached and services rendered should be matched against the known needs of the handicapped, so that actual gaps and shortcomings in service may be determined.

Many community-based organizations have deliberately kept apart from the professional health and rehabilitation agencies in the recreation field. Although their unwillingness to fit under a "medical model" of service is understandable, it would be extremely helpful if such organizations would share in decision-making and priority setting in therapeutic recreation on the national scene. They could be highly effective in mobilizing consumer interest and support, and in attacking the prejudice and policies of segregation that limit recreational participation by the atypical today.

Federal Action in Therapeutic Recreation Service

In America's almost 200-year history, there has been only one piece of federal legislation addressing itself specifically to recreation for the ill and handicapped. Public Law 90-170 (superseded by P.L. 91-230) was introduced in 1967 by Senator Edward M. Kennedy. It resulted in a $1.3 million annual training and research program in therapeutic recreation and adapted physical education for the mentally retarded, administered through the U.S. Office of Education. This program has been one of the major achievements of the past decade; to meet increasing needs for training, research and the development of new program models, it should be sharply expanded.

Other legislation, such as the Older Americans Act of 1965, gave support to community programs serving those with special recreation needs. However, some examples of major legislation that should have addressed themselves specifically to the needs of the disabled and disadvantaged in the area of recreation, such as Public Law 88-29 (Outdoor Recreation and the Bureau of Outdoor Recreation) have evaded this basic responsibility. And there has been a decline in the amount of federal support given to professional training and research in therapeutic recreation by such agencies as the Vocational Rehabilitation Program of the Rehabilitation Services Administration.

Most recently, President Richard M. Nixon's Committee on Employment of the Handicapped has established and staffed a Committee on Recreation and Leisure. This body has been empowered to promote two significant needs: encouragement of employment of the handicapped in recreation and enrichment of opportunities for participation in community programs.

More Support Needed

It is clear that there is a major need today for fuller federal support in this field. One might easily direct a comparatively modest sum—modest in terms of the vast amounts assigned to less socially useful projects—along the following lines:

(Continued on page 38)

HANDICAPPED

(Continued from page 35)

Title of Proposed Bill: Recreation and Cultural Fulfillment for the Ill and Handicapped

Function	*Cost (in Millions)*
National Commission on Recreation and Cultural Fulfillment for the Handicapped	$ 2.0
100 Local Demonstration Projects	$10.0
In-Service Transition Training	$ 2.0
State Level Development	$ 2.5
Professional Training	$ 1.5
Research	$ 2.0
Total	20.0

As indicated earlier, millions of Americans who are aged, handicapped, or socially and economically disadvantaged are prevented from using the nation's park and outdoor recreation resources. The federal government is now formulating a nationwide Outdoor Recreation Plan. This plan should provide an extraordinary opportunity to respond to the needs and aspirations of this significant portion of America's population. If the opportunity is by-passed, it will be a horrendous insult to the ill and handicapped and a giant step backward in our evolution.

Consumer Advocacy

Despite the existence of many organizations in this field, there has been no concerted effort to coordinate their efforts or to provide for "consumer" input in recreation for the handicapped. Steps should be taken to bring the handicapped into planning, evaluating, and promoting new forms of recreation. One way to do this might be through the formation of a National Council on Recreation for the Ill and Handicapped.

This council might well bring together all of the organizations and programs described earlier, providing a channel for the handicapped themselves to make their needs known. Its first project could be the publication of an Annual Yearbook and Directory of Recreation Programs for the Ill and Handicapped. The Council would provide overall economy at the national level, making possible expansion of existing services, cooperation and coordination, and ultimately better services to handicapped persons throughout the United States.

Search for New, Fundable Models

There is an overriding need to develop, test, and replicate new models for community park and recreation services for the ill and handicapped

Special financing is a critical factor, because programs for the atypical can cost up to 10 times as much as regular programs. Thus, program plans in therapeutic recreation that fail to include specific methods of providing needed funds represent a waste of time. Such new models might focus on a variety of settings or cooperative arrangements: voluntary health agency models, leisure center for the handicapped models, school recreation program models, and the like.

Redefining the Movement

The ill and handicapped have become more fully involved in recreation, sports, cultural, and other leisure programs in recent years than ever before. Many communities, states, and recreation agencies are scrutinizing their facilities, developing standards and guidelines, and attempting to increase participation by the handicapped. Therapeutic recreation service has become a major area of specialized training in professional preparation curricula. Voluntary agencies in health and rehabilitation have begun to devote increasing attention to recreation, and the federal government has given limited support to the field.

However, these must be regarded as only first steps in an enormous undertaking. It is essential that fuller and faster progress be made in meeting the crucial need for recreation and cultural fulfillment for all of America's handicapped and disadvantaged.

One might reflect briefly on our society's staggering annual expenditure on recreation products and services—and then contrast our general affluence with the bleak, lonely, empty, neglected lives of millions of aged, ill, and handicapped persons.

Americans must realize that, apart from their sheer human right to full and happy lives, the handicapped are often enabled by recreation training and services to function more effectively in social and vocational settings, to reach their full capacities as people, and thus to avoid total dependence and institutionalization. As a nation, it is essential that we reaffirm our basic humanity by supporting programs that will ensure equal opportunity for all in this crucial area.

There is no national priority more important than providing recreation and cultural fulfillment for the aged, ill, and handicapped. To work in this field requires no dues, no membership card—only a sense of one's human, civic, and professional responsibility to go to work, right now.

NESBITT

JOHN A. NESBITT is professor and chairman, Department of Recreation and Park Administration, University of Iowa, Iowa City, Iowa. He has an M.A. (1961) and D.Ed. (1966) from Teachers College, Columbia University. He has developed and directed over $1 million in special research, training, and technical assistance projects in behalf of handicapped children and disadvantaged and, serving on several international rehabilitation groups, has traveled in some 35 countries. He has served as president of the National Therapeutic Recreation Society.

LEISURE TODAY is published as a special editorial insert in the JOURNAL by the American Association for Health, Physical Education, and Recreation, 1201 16th St., N.W., Washington, D.C. 20036. LEISURE TODAY is prepared as a service to the profession by AAHPER's Recreation Division.

Senator Randolph. We are very happy to have John A. Lancaster, and he comes to us from the Paralyzed Veterans of America, and he is our last witness of the session today.

If you can, John, please highlight your statement; the testimony will be included in its entirety, of course with the supplementary materials which you have attached.

You may proceed, and if you might, I think it would be helpful, to tell us something about your organization, what you do, and so forth.

STATEMENT OF JOHN A. LANCASTER, DEPUTY NATIONAL SERVICE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Lancaster. Thank you. Mr. Chairman.

I am John Lancaster, deputy national service director of the Paralyzed Veterans of America.

In fact, we have one of our past executive directors sitting up here, Mr. Michael Burns, an aide to Senator Stafford.

The Paralyzed Veterans of America is a small veterans organization, with just a little over 10,000 members.

All of our members are veterans, with spinal cord injuries, or spinal diseases, and our primary goals and purposes are, No. 1, service to all veterans in claims before the Veterans' Administration, and with other problems they may have.

Of particular interest is monitoring the VA hospitals, and making sure they provide quality medical care, for all veterans, and especially veterans with spinal cord injuries.

Another one of our major concerns is the spinal cord injury research. Going along with that, we just recently founded the Technology and Research Foundation, which is a separate nonprofit corporation from the Paralyzed Veterans of America, but will be initially funded by PVA. We hope that further significant basic spinal cord research will come through the foundation.

Another one of our thrusts is rehabilitation in general of all handicapped persons. Another one of our goals is the breakdown of and doing away with all architectural barriers. That is basically what Paralyzed Veterans is about.

Before I get into my remarks, and I will summarize and make them brief. I would just like to emphasize and give the Paralyzed Veterans of America the full support to the concepts outlined in the testimony given by Mr. Dubow and Ms. Farham.

That is excellent testimony. They are pointing the finger where it should be pointed, we believe.

We also like their remarks concerning enforcement of those provisions of the Rehabilitation Act of 1973.

I also would like to thank the Senator for the cooperation of and continued help from his staff, and I hope the materials I was able to supply, since I last testified before you, were of some help. I also appreciate the Senator making time for Mr. Dennis Canon, who will testify tomorrow. He will probably inform you that he is a consultant to the Southern California Rapid Transit District, and he will have some very enlightening information for you concerning the Urban Mass Transit Administration and what they have done.

Senator RANDOLPH. We will be very happy to hear his testimony.

Mr. LANCASTER. The Paralyzed Veterans of America really appreciate that. I think you will find him a very knowledgeable individual, very articulate, and he knows the law extremely well, as well as some of the political realities that seem to exist, the pressures, I should say, of the Urban Mass Transportation Administration has to live with, and, therefore, create the problems that exist today. I would like to address my remarks to section 504 of the act, primarily, and I will use as an example the failure of this section to be implemented by the Urban Mass Transit Administration, which as you well know distributes billions of Federal dollars to urban mass transportation, while the physically disabled persons who are confined to wheelchairs are excluded from the benefits of those funds.

No county, city, or transit company in the United States operates a full-size, mainline, haul passenger bus accessible to those who ambulate by wheelchair.

This is clearly contradictory to section 504.

The language of section 504 was taken directly from section 601 of the Civil Rights Act of 1964, and its legislative history makes it obvious the purpose was to extend the rights guaranteed by the Civil Rights Act of 1964, to the handicapped.

The senate report from the Committee on Labor and Public Welfare states section 504 was enacted to prevent discrimination against all handicapped individuals, regardless of their need for, or ability to benefit from vocational rehabilitation services, in relation to Federal assistance in employment, transportation, housing grants, and so forth.

Section 504 is clearly patterned after, and it is almost identical to, the antidiscrimination language of section 601 of the Civil Rights Act of 1964. The section, therefore, constitutes the establishment of a broad Government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicapped.

I would like to emphasize that UMTA has responsibility under the law, not only section 504, but throughout title 49 of providing for accessible transportation to all handicapped people.

For some reason, UMTA thinks because you sit in a wheelchair you are not handicapped. I beg to differ with that. They do not seem to see things the way we do.

Senator RANDOLPH. We are going to ask very pointed questions, John, on April 5 of UMTA.

I wanted at this point to state that Senator Stafford, who has a very intense interest in this subject matter of the Subcommittee on Handicapped, is not able to be present today; but I want you to know, as you do know, of his leadership in this area. It is my intention to probe very deeply into the philosophy of those who administer the program, and see if they really want to help handicapped individuals.

Mr. LANCASTER. As the Senator will learn tomorrow, that under the UMT Act, section 16(b)(1), basically mandates that UMTA provide these accessible buses, and develop programs along these lines, and that they have barely expended dollar one for that section, and the money has been authorized.

Section 16(b)(2) programs, they have spent some money, and these programs are basically demand response to dial-a-ride programs, which the Paralyzed Veterans of America are certainly not opposed to, but we maintain any sort of demand-response system in transportation for handicapped individuals should exist only to augment a fully accessible integrated system, and not only rail, but buses as well, and the technology for those types of buses is presently available.

If it was not for the restricted efforts of UMTA, prompted by lobbying efforts from General Motors and APTA, and if it wasn't for the restrictive efforts of UMTA, prompted by lobby efforts from General Motors in order to protect their own new inaccessible RT-S-2 bus, the Southern California Rapid Transit District would have signed a contract with Rohr Industries for 300 full-sized, main-line haul, efficient, safe wheelchair accessible buses. That type of action on the part of UMTA with absolutely no valid reason amounts to insidious discrimination by the Federal Government against a certain segment of citizens merely because they are confined to wheelchairs. It is obvious that the lesson this Nation learned in the 1960's, that all citizens are entitled to civil rights, was not learned over at the Department of Transportation.

Further, evidence of UMTA's insidious discriminatory policies can be seen through their failure to promulgate regulations providing for main-line haul wheelchair accessible buses. Almost 2 years ago they did publish proposed regulations which were not only ineffective but were also being proposed merely for reasons of politics and litigation. We have attached as appendices to this testimony copies of interagency memos which prove this fact and clearly exhibit UMTA's intentional efforts to insure that those confined to a wheelchair are denied the benefits public mass transportation on an equal basis with all other citizens. One of these memos, as you see is a handwritten one from the then Chief Council of UMTA, Ms. Sally Ann Payton, speaks for itself. If I was a legislator, I would not sit idly by and watch the laws I so diligently worked to pass be subverted and ignored by petty bureaucrats controlled by private industry.

That is why the regulations were proposed.

Further, UMTA tentatively plans to publish for comment proposed interim regulations this upcoming Friday. I have seen a draft of these regulations and they do little for any handicapped person let alone a handicapped person confined to a wheelchair. They are still not providing for an accessible bus. Attached to the proposed regulations would be a suggested set of criteria for providing for an accessible bus and operation of a system for those confined to wheelchairs. However, if the regulations ever are promulgated, this portion would not have a regulatory effect and would be persuasive to no one. We submit that again the publication in the Federal Register for comment on these interim regulations is for litigation and political reasons. In fact, I am sure if UMTA did not have to testify before this committee next Monday, there would not even be a draft of proposed interim regulations that ostensibly provide criteria for accessible buses for the elderly and handicapped.

Senator RANDOLPH. At that point, perhaps you might go back to your page 5, where you are speaking of the amendment to the Federal Aid Highway Act of 1973; as you have indicated, there is a very clear requirement that projects for mass transit funded under this act must be fully accessible to persons in wheelchairs. As you indicate, the implementation of the law is what is very important; the intent and spirit of the Congress must be carried out.

Mr. **Lancaster**. That is correct.

Senator **Randolph**. Your implied criticism is that there has been a partial implementation; is that correct?

Mr. **Lancaster**. That is correct to an extent. I would go a little bit farther, Senator, and say it is more than a failure. I think UMTA is listening a little too hard to the people at General Motors, and General Motors at this point in time does not want to make its buses accessible.

They have conjured up a multimillion dollar assembly line, for a new generation of buses, which basically will be quieter, add a little less pollutants in the air, and have a lot more glass, so it will be nice and easy to see out of the bus, but basically it is the same bus that now drives up and down the street everywhere throughout this Nation.

It is not accessible to wheelchair people. They do not want to see UMTA coming out with a design criteria, which will mandate a wheelchair accessible bus, and, frankly, politics being what they are, pressures being what they are, I do not frankly think that the Urban Mass Transit Administration, or the Department of Transportation has the nerve to say, we are going to issue the resign criteria for a wheelchair bus that is accessible, and General Motors, we are sorry, but you will have to retool that assembly line, but we are mandated by law to issue regulations for an accessible bus, and if it hurts you, so be it, you know what the laws are, and you could have come up with your own wheelchair accessible bus and been the first to market it. I frankly do not think UMTA has the nerve to tell GM to do that, Senator. It discourages me, because we know that the Department of Transportation, of course, that is a personal thing with me, but they took a rather nebulous stand on the Concorde issue, I think they were influenced very strongly by some very powerful special interest concerns and I do not know what you can do to combat that.

We look toward the legislature, towards people like yourself, who have worked so hard, and so diligently in the past to put these laws on the books to do these things, that we hope will be achieved, and then we see the regulatory agencies of the executive branch, turn around, and do nothing about those laws.

They either failed to implement them, or implemented them half way, and that is a problem that I hope this committee can tackle.

Of course, it is the nature of our Constitution, that there is three branches of Government, and I know you can only go so far. We have worked with UMTA, we have tried to give them our input, but evidently we do not have the clout other certain special interest groups do.

I really do not have any additional comments, the rest of my testimony speaks for itself.

I appreciate again your interest, and your concern in these matters, and the opportunity to speak for you and to represent the views of the Paralyzed Veterans of America.

Senator **Randolph**. Well, of course, we will continue the subject matter which you bring to our attention, on the 5th of April. We will be determined to do what we can to see that decisions are made, that the programs are set in motion, and that the needs are met; that is what we want, and hopefully can achieve; and you keep after it, John.

Mr. **Lancaster**. Yes.

Senator **Randolph**. I know you will do that. I do not need to tell you.

John, you keep doing what you are doing, and I commend you, not as a pleasantry; I know it is an active commitment you have, so we will work with you and with others, and thanks again for being with us today.

Mr. **Lancaster**. Thank you, sir.

[The prepared statement of Mr. Lancaster follows:]

TESTIMONY OF JOHN A. LANCASTER
OF THE PARALYZED VETERANS OF AMERICA
ON THE REHABILITATION ACT OF 1973
(PL 93-112) AS AMENDED (PL 93-516)
OVERSIGHT HEARINGS BEFORE THE SENATE
SUBCOMMITTEE ON THE HANDICAPPED OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE
MARCH 30, 1976

Mr. Chairman and members of the Subcommittee on the Handicapped, the Paralyzed Veterans of America is grateful to again testify in these continuing oversight hearings on the Rehabilitation Act of 1973.

In our past testimony on February 20, 1976 we addressed all portions of the Act pointing out what we believed to be significant shortcomings in the law and recommending changes that we believe would rectify those shortcomings. Today we address only two sections of the act in order to emphasife to the committee the importance of these sections, stressing the needs and resulting benefits from their full funding and total implementation as was originally intended. These are section 202 (b), (2), (3), and (4) of title II of the Act pertaining to research and training and section 504 of the act pertaining to the civil rights of handicapped individuals when federal funds are involved.

SPINAL CORD INJURY RESEARCH

First, with respect to Title II, Research and Training, section 202 (b) (2), (3), and (4) of the Act, the Paralyzed Veterans of America has paramount concern.

There are approximately 200,000 spinal cord injury victims presently living in the United States. Approximately 10,000 to 12,000 new injuries occur each year. It has been estimated that greater than 10% of these are veterans. In addition many more are eligible for V.A. benefits including active servicemen and dependents. Regardless of etiology, all spinal cord injuries are devastating, not only physically but psychosocially and financially. This catastrophe is not limited to the victim, but is also experienced by his family, friends, community and society in general. Since the spinal cord is the connecting pathway for most neural control mechanisms for the various organs of the body, injury to it can cause dysfunction in almost all biological systems. Complications cause not only great expense but prolonged periods of hospitalization and family separation. Divorce and/or other family problems are not uncommon. The cost of supporting such a patient, injured in the prime of youth, may exceed one million dollars during a lifetime!

Further, many of our catastrophically disabled members are victims of a regressive system which makes them dependent upon the government for their health and welfare rather than living an independent, self-respecting life, earning a wage, paying taxes and contributing to society.

P.V.A. fully endorses the concept of section 202 and urges its full financial support. As can be seen from the figures above, monies expended toward a cure for spinal cord injury and towards improved rehabilitation could possibly save the government millions of dollars in the long run. To further these ends of significant spinal cord injury research, P.V.A. has created its own Technology and Research Foundation which will expend 100% of its funding to support worthy research projects in spinal cord injury and disease which will have potential spin-off benefits to others suffering from various catastrophic disabilities. However, our efforts cannot begin to meet the need for this kind of research; greater federal funding is needed.

DISCRIMINATION AGAINST THE HANDICAPPED -- INACCESSIBLE BUSES PROMOTED BY UMTA, A CASE ON POINT

Secondly, we address ourselves to section 504 of the Act which prohibits discrimination against qualified handicapped individuals in Federally-assisted programs. It is extremely discouraging, and indeed a sad commentary on the executive branch of our government, to witness the continuing and intentional delay in issuing regulations which would implement section 504. HEW, HUD, Labor, DOT and all other sectors of the federal bureaucracy are, in fact, actively engaged in activities to defeat the purpose of section 504.

An easily documented case of such a total commitment to subvert the implementation of section 504 are the actions of the Urban Mass Transportation Administration of the Department of Transportation. Since the passage of the Urban Mass Transportation Act of 1964, UMTA has been charged with aiding cities with the preservation of their transit systems through conversion to public ownership. In 1970 UMTA was charged by Congress to establish a discretionary fund for subsidizing 80% of capital costs of urban transit systems and 50% of operating costs.

The effect of these programs passed by Congress has been to establish within UMTA the power to control the development of mass transportation. Before a transit authority may receive its 80% of federal funds to purchase new buses, UMTA must approve the design specifications of these vehicles. Thus, by regulating the design and type of buses which urban transit authorities may buy, UMTA has the capability to control the design and type of buses which manufacturers produce. Unfortunately, for handicapped persons and the general public at large the indecisive and cowardly administrators of UMTA let such powerful special interest groups as the American Public Transit Association (APTA) and General Motors control and dictate the direction and development of mass transportation. UMTA is in actuality a pawn for these pawn brokers.

UMTA distributes billions of our federal dollars annually on urban mass transportation, while physically disabled persons confined to wheelchairs are being excluded from the benefits of those funds contrary to law. No county, city, or transit company in the United States operates a full-size, main-line haul passenger bus accessible to those who ambulate by wheelchair.

UMTA is clearly conducting its agency actions in violation of section 504 by disbursing federal funds for buses inaccessible to those who ambulate by wheelchair and also in failing to promulgate regulations providing specific design criteria for a wheelchair accessible bus. Section 504 of the Rehabilitation Act of 1973 mandates that buses purchased with federal funds be accessible to the wheelchair bound:

> Sec. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(b), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The language of section 504 was taken directly from section 601 of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d), and its legislative history makes it obvious that the purpose was to extend the rights guaranteed by the Civil Rights Act of 1964 to the handicapped. The Senate Report from the Committee on Labor and Public Welfare states:

> Section 504 was enacted to prevent discrimination against all handicapped individuals, regardless of their need for, or ability to benefit from, vocational rehabilitation services, in relation to Federal assistance in employment, housing, transportation, education, health services, or any other Federally-aided programs....
>
> The section was patterned after, and is almost identical to, the anti-discrimination language of section 601 of the Civil Rights Act of 1964.... The section therefore constitutes the establisyment of a broad government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicap. 120 Cong. Rec. S.16198, Sept. 10, 1974.

Section 504 is clearly far more than a mere declaration of policy as UMTA has argued both as named defendants and as amicus curae in numerous law suits being brought to try and obtain the purchase of accessible buses. Besides Section 504, however, transportation statutes mandating that UMTAprovide for wheelchair accessible buses remain unimplemented. The 1970 amendments to the UMT Act require that "special efforts" be made toward making transportation services available to the elderly and handicapped. UMTA has made only token efforts, such as Transbus, no "special efforts" have been made. The 1974 amendments to the Federal Aid Highway Act of 1973 (FAH Act) plainly require that mass transit projects funded under the FAH Act be fully accessible to the wheelchair bound. The Department of Transportation and related agencies Appropriations Act of 1975 requires that mass transit projects paid for out of that appropriation be accessible to the elderly and handicapped. Unfortunately, such has not been the case. Finally, the 1974 amendments to the UMT Act prohibit the use of funds to support procurements utilizing exclusionary or discriminatory specifications. It is clear that UMTA has its mandate; yet it continues to ignore them and in fact aids transit authorities in their continuing overt and deliberate discrimination towards those persons who ambulate by wheelchair.

It could have been said three years ago that this discrimination against the wheelchair bound was obviously intentional, but was not insidious for at that time section 504, the FAH Act and the 1970 Amendments to the UMT Act were new laws and regulations and technology needed to be developed. Today, however, we can call the discrimination on the part of urban mass transit authorities and UMTA not only deliberate but insidious as well. The technology is available! If it wasn't for the restrictive efforts of UMTA, prompted by lobby efforts from General Motors in order to protect their own new inaccessible RT-S-2 bus, the Southern California Rapid Transit District would have signed a contract with Rohr Industries for 300 full sized, main-line haul, efficient, safe wheelchair accessible buses. That type of actions on the part of UMTA with absolutely no valid reason amounts to insidious discrimination by the Federal government against a certain segment citizens merely because they are confined to wheelchairs. It is obvious that the lesson this Nation learned in the 1960's, that all citizens are entitled to civil rights, was not learned over at the Department of Transportation.

Further, evidence of UMTA's insidious discriminatory policies can be seen through their failure to promulgate regulations providing for main-line haul wheelchair accessible buses. Almost two years ago they did publish proposed regulations which were not only ineffective but were also being proposed merely for reasons of politics and litigation. We have attached as appendices to this testimony copies of interagency memos which prove this fact and clearly exhibit UMTA's intentional efforts to ensure that those confined to a wheelchair are denied the benefits public mass transportation on an equal basis with all other citizens. One of these memos as you see in a hand written one from the then Chief Council of UMTA, Ms. Sally Ann Payton, speaks for itself. If I was a legislator, I would not sit idly by and watch the laws I so diligently worked to pass be subverted and ignored by petty bureaucrats controlled by private industry.

Further, UMTA tentatively plans to publish for comment proposed interim regulations this upcoming Friday. I have seen a draft of these regulations and they do little for any handicapped person let alone a handicapped person confined to a wheelchair. They are still not providing for an accessible bus. Attached to the proposed regulations would be a suggested set of criteria for providing for an accessible bus and operation of a system for those confined to wheelchairs. However, if the regulations ever are promulgated this portion would not have a regulatory effect and would be persuasive to no one. We submit that again the publication in the Federal Register for comment on these interim regulations is for litigation and political reasons. In fact, I'm sure if UMTA did not have to testify before this Committee next Monday there wouldn't even be a draft of proposed interim regulations that ostensibly provide criteria for accessible buses for the elderly and handicapped.

The issue here is really far more basic than it may seem. It is not only one of failure of an executive agency to implement the laws Congress has passed. It is far more than just an issue of how best to carry out the law within the parameters of existing technology and economic realities. It is a very basic constitutional issue that strikes right at the heart of civil liberties and the quality of life for all citizens in our land. It is clear that the Privileges and Immunities Clause of the Fourteenth Amendment requires that an individual, as one of the privileges of national citizenship, be allowed to travel freely not only among the various states but intrastate as well. It is a denial of inalienable rights to continue to operate urban mass transportation that is not accessible to all citizens. Professor tenBrock wrote in 1966:

> Movement, we are told, is the law of animal life. As to man, in any event, nothing could be more essential to personality, social existence, economic opportunity--in short, to the individual well-being and integrations into the life of the community--than the physical capacity, the public approval, and the legal right to be abroad in the land. 54 California Law Review 841, 1966.

It is obvious that for those confined to wheelchairs, the exclusion from buses and subways further isolates them from the mainstream of society and the benefits contained therein. Education, employment, culture, and recreation are unavailable, and thus the stigma of the individual in the wheelchair being an unproductive person prevails.

The Committee should look to the positive benefits that can come from wheelchair accessible buses. There would be easier access for all persons. Larger amounts would be collected in fares. It would increase employment opportunities for the wheelchair bound, resulting in more taxes. It would provide for greater participation and contributions in all aspects of society from a large number of citizens who, but for disability, would be abroad in this land and its cities carrying his or her fair share of responsibilities which come with those inalienable rights of citizenship.

We suggest that the committee amend section 504, not only to correct the transportation problem which I have explained, but also to make absolutely clear to every government agency and every activity receiving Federal-financial assistance that it shall not discriminate against handicapped persons confined to wheelchairs. Since local jurisdictions and Federal agencies, such as UMTA, have neglected to acknowledge the obvious intent of section 504, it is recommended that this section be amended by adding the following subparagraph:

> All elderly and mobility handicapped persons, including those who must ambulate by wheelchair, shall have equal access to the benefits of and equal right to utilization of all public activities and facilities, including all forms of transportation, which receive any Federal financial assistance.

It is further recommended that the committee mandate by law that all Federal departments and agencies promulgate appropriate regulations on section 504 as amended as it pertains to their activities within ninety (90) days of the enactment of this amendment.

In conclusion, the Paralyzed Veterans of America feels that it is regrettable that, as in the 1960's with the Civil Rights Act and the Voting Rights Act, the Congress has had to legislate for a certain segment of the American society, in this case the handicapped, the Constitutionally protected rights they already possess. It matters not, where such fundamental right such as freedom of movement are concerned, whether the denial and discrimination is direct or indirect. The freedoms and rights section 504 seeks to protect for handicapped persons are those freedoms which cannot be deprived a citizen without due process of law. Section 504 should be fully implemented with our recommended changes to ensure that handicapped persons can exercise their rights to secure an education, to seek and engage in gainful employment, to associate, to have access to the courts and government.

We as veterans, many of us who received our disabilities while engaged in service to protect those rights just mentioned, do not want to be denied those rights merely because of an inaccessible bus or antiquated and unimaginative architecture. In spite of our wheelchairs we should be able to actively contribute to our society without physical and bureaucratic encumberances.

DEPARTMENT OF
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

APPENDIX 1

18 APR 1974

MEMORANDUM

TO : Bruce T. Barkley, Director
Program Development, UPP-10

FROM : Chief Counsel
UCC-1

SUBJECT: Application of §165(b) of the Federal-Aid Highway Act of 1973

Section 165(b) of the Federal-Aid Highway Act of 1973 requires that the Secretary assure that projects which receive Federal financial assistance under certain statutory provisions be "...planned and designed so that mass transportation facilities and services can effectively be utilized by elderly and handicapped persons who...are unable without special facilities or special planning or design to utilize such facilities and services as effectively as persons not so affected."

This requirement affects three types of projects: those financed under 23 USC 103(e)(4), which allows responsible local officials to request nonhighway public mass transit projects in lieu of withdrawn Interstate segments; those financed under 23 USC 142 (a) and (c), which allow transit related facilities to be approved as highway projects and transit facilities and equipment to be approved as or in lieu of Federal-aid urban system projects; and those financed under Section 147 of the 1973 Highway Act, which provides for a rural highway public transportation demonstration program.

As these various statutory provisions are implemented, it is important that the requirements imposed by §165 (b) be clearly understood by potential and actual recipients of Federal assistance. Regulations developed to implement these provisions should cover the §165(b) requirements.

The legislative history of §165(b) makes it clear that Congress intended, by this section, to impose requirements on projects funded under the affected sections which are equivalent to those imposed on UMTA projects by §16(a) of the UMTA Act.

We interpret §16 of the UMTA Act as establishing a goal of effective utilization of mass transit facilities and services by elderly and handicapped persons, and requiring that steps be taken to achieve this goal. These steps must be reasonable and practicable, given the state of the art and the general mandate to provide and encourage mass transportation in urban areas.

Similarly, §165(b) of the Highway Act must be interpreted in a reasonable and practicable manner. We do not believe Congress meant to attach requirements which would make the provisions authorizing transit and transit related programs nugatory. That would be the effect of interpreting §165(b) as requiring that all projects funded under the affected provisions must contain features which make them usable by all elderly and handicapped persons.

Accordingly, we interpret §165(b) as requiring that mass transit facilities and services funded under the affected provisions must incorporate features which will facilitat the use of those facilities and services by a particular group of the elderly and handicapped. The group which is of concern is those persons who normally utilize and can be expected to utilize mass transit facilities and servic but, due to age or physical disability, cannot do so "as effectively as" persons without those characteristics.

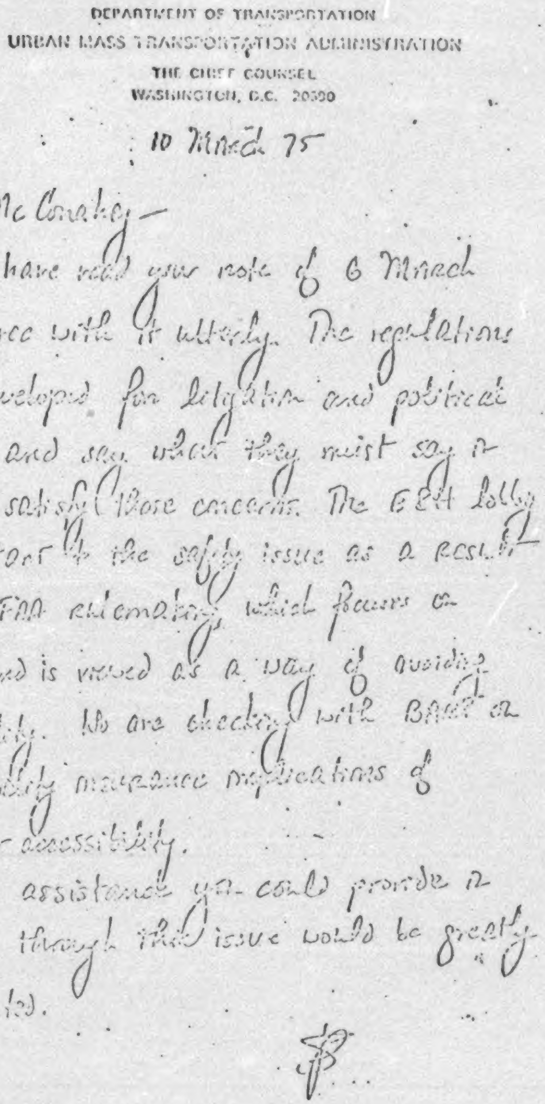
The operative effect of this interpretation is that the projects involving transit services and facilities subje to the §165(b) requirements must incorporate features designed to facilitate use by elderly and handicapped persons whose disabilities are such that they can reasonably be expected to use mass transit, but not--absent special features--with the same ease as those persons without those disabilities. Such persons include, for example, those with poor eyesight, but not the blind; those who are lame, but not those confined to wheelchai Examples of features which might be required under §165 include additional handholds in buses, and additional lighting and larger signs at bus terminals and stops. Features not required by §165(b) include lifts on buses for wheelchair passengers.

I might note that a General Counsel's opinion on §165(b) is in essential agreement with this interpretation, although we have some disagreement as to the policy determinations flowing from this position. We agree that the section is to be interpreted so as to require special features which will facilitate the use of transit projects by elderly and handicapped persons who could reasonably be expected to use the facilities even without such features. The General Counsel's opinion includes paraplegics within that class of persons. We do not agree with that inclusion

Sallyanne Payton

Sallyanne Payton

APPENDIX 2



DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
THE CHIEF COUNSEL
WASHINGTON, D.C. 20590

10 March 75

Steve McConahey —

I have read your note of 6 March and agree with it utterly. The regulations were developed for litigation and political reasons, and say what they must say in order to satisfy those concerns. The E&H lobby is resistant to the safety issue as a result of the FAA rulemaking which focuses on safety and is viewed as a way of avoiding accessibility. We are checking with BART on the liability insurance implications of wheelchair accessibility.

Any assistance you could provide in thinking through this issue would be greatly appreciated.

APPENDIX 3

UNITED STATES GOVERNMENT
Memorandum

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINIS

DATE: JUL 18 1974

In reply refer to:

SUBJECT: Elderly and Handicapped Issue

FROM: Director of Program Development, UPP-10

TO: Associate Administrator for Program Planning, UPP-1

Attached is a discussion paper on alternative approaches to addressing the elderly and handicapped issue. The following points should be made regarding the issue.

1. We already know the national dimensions of the E&H population; the problem is achieving local service equity with the limited UMTA leverage being applied now. We need a better feel for how these users are now served in each urban area and how to improve services to them through UMTA programs and leverage.

   General figures are available. The total E&H population is 25 million; 15 million in urban areas. About 1.3 million of those cannot use current transit equipment even if they were served by it, because of severe handicaps. (They need special services) About 3 million could use transit if it were available within about two blocks, because of less severe problems. About 800,000 are wheelchair confined or need walkers. We also know that the elderly and handicapped are usually low-income users, thus programs to reduce fares are directly useful and services to low-income areas have built-in benefits for the elderly.

2. UMTA should propose service or performance standards for the E&H or specify a process through which they could be established through the planning process as in other federal programs. The development of generalized performance or service standards (including equipment) for these groups would be possible and is the appropriate first step in assessing costs. This should be accomplished through a notice of proposed rule making. The standard-setting process could be stretched out for 24-36 months if need

be, and the current UTP research could be supportive. An UMTA task force on E&H has already recommended that an explicit regulation be issued.

3. UMTA cannot rely wholly on a limited demonstration program and the UTP policy research project as evidence of its responsiveness to the issue. The capital and planning programs should be used as leverage to effect feasible action; they are not now.

4. UMTA can have a large impact on bus design changes needed for the E&H through issuing bus performance standards consistent with TRANSBUS. Unless the bus production process is nudged away from current technology, the conventional bus will likely remain the only feasible alternative for millions of users.

5. UMTA could define an operational objective for E&H as a standard for program evaluation. Our current development of operational objectives could be a useful way to get UMTA going toward service standards for the E&H and toward a way to develop project review guidelines.

6. UMTA should issue a notice of proposed rule making on the subject of the elderly and handicapped. It does not need to be detailed, nor state specific standards. An illustrative notice is attached as an example of one approach. Precedent for UMTA regulations in the Federal Register has already been set for the 1973 Highway Act, and for the analysis of alternatives guidelines. Rules for E&H are a logical next step.

7. There is some urgency to resolution of this issue. The attached Secretarial correspondence has been held up for over 8 months because of disagreements between S-6, TES, and UMTA on DOT replies to outside pressures for explicit UMTA compliance with section 16(a). TES did not concur in the latest S-6(Lutz) draft replies

to Messrs. Mandella, Eaton and Gray, which remained "silent on the question of compliance with the existing requirements of statute". UMTA had last January failed to concur in TES drafts which stated that if UTAP (which provided for "alternative" services to the E&H) was not enacted, DOT intended "to propose regulations for public comment" to implement section 16 and section 165(b). I believe we can bring S-6 around to our point of view. I would recommend concurrence with the TES proposed letters.

Bruce T. Barkley

Attachments

Senator **Randolph.** We have to continue in this room tomorrow as I earlier said, and will begin at 9:30.

Thank you all.

[Whereupon, the subcommittee was recessed at 11:30 a.m.]

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